



EUROPEAN
COURT
OF AUDITORS

EN

Opinion 03/2022

(pursuant to Article 322(2), TFEU)

concerning the Commission's proposal for a Council Regulation on the methods and procedure for making available own resources based on the Emissions Trading System, the Carbon Border Adjustment Mechanism and reallocated profits, and on the measures to meet cash requirements [2022/0071(NLE)]

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THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322(2) thereof;

Having regard to the Commission's proposal for a Council Regulation on the methods and procedure for making available own resources based on the Emissions Trading System, the Carbon Border Adjustment Mechanism and reallocated profits, and on the measures to meet cash requirements, adopted on 14 March 2022¹;

Having regard to the Council's request for an opinion, received on 30 March 2022;

Having regard to Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom²;

Having regard to Council Regulation (EU, Euratom) No 609/2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources, and on the measures to meet cash requirements³, as last amended by Regulation (EU, Euratom) 2022/615 of 5 April 2022⁴;

Having regard to Council Regulation (EU, Euratom) 2021/770 of 30 April 2021 on the calculation of the own resource based on plastic packaging waste that is not recycled, on the methods and procedure for making available that own resource, on measures to meet cash requirements, and on certain aspects of the own resource based on GNI⁵; and

Having regard to the European Court of Auditors' previous opinions⁶ on the EU's system of own resources, in particular opinions 5/2018 and 2/2021.

¹ COM(2022) 101 final, 2022/0071 (NLE) of 14.3.2022.

² OJ L 424, 15.12.2020, p. 1.

³ OJ L 168, 7.6.2014, p. 39.

⁴ OJ L 115, 13.4.2022, p. 51.

⁵ OJ L 165, 11.5.2021, p. 15.

⁶ Opinions 2/2021 (OJ C 4021, 05.10.2021, p. 1), 11/2020 (OJ C 26, 22.1.2021, p. 1), 5/2018 (OJ C 431, 29.11.2018, p. 1), 7/2015 (OJ C 5, 8.1.2016, p. 1), 7/2014 (OJ C 459, 19.12.2014, p. 1), 2/2012 (OJ C 112, 18.4.2012, p. 1), 2/2008 (OJ C 192, 29.7.2008, p. 1), 2/2006 (OJ C 203, 25.8.2006, p. 50), 4/2005 (OJ C 167, 7.7.2005, p. 1) and 7/2003 (OJ C 318, 30.12.2003, p. 1).

Whereas:

- (1) The Commission's Reflection Paper on the future of EU finances⁷ stressed that the current approach to financing is overcomplicated, opaque and riddled with complex correction mechanisms, and that in the future the system should be simple, fair and transparent;
- (2) The resolution on the reform of the EU's system of own resources adopted by the European Parliament in March 2018 highlighted shortcomings in the way the EU budget is financed and called for far-reaching reforms, and also called, in particular, for the introduction of new, different categories of own resources and the discontinuation of all corrections⁸.

HAS ADOPTED THE FOLLOWING OPINION:

⁷ COM(2017) 358 final of 28.6.2017.

⁸ European Parliament resolution of 14 March 2018 on reform of the European Union's system of own resources (2017/2053(INI)).

Introduction

01 NextGenerationEU (“NGEU”) is the EU’s temporary fund for supporting Member States in reducing the socio-economic impact of the COVID-19 pandemic and in getting back on track towards sustainable growth. Up to €750 billion in funding raised on capital markets will be made available under NGEU. Sufficient revenue is needed to cover the EU’s repayments for the non-refundable financial support to Member States associated with the NGEU. These repayments are scheduled to last until the end of 2058⁹.

02 As part of the Inter-Institutional Agreement (IIA) under the 2021-2027 Multi-annual Financial Framework (MFF)¹⁰, the European Parliament, the Council and the Commission agreed on a roadmap for working towards introducing sufficient new own resources with a view to covering an amount corresponding to the expected expenditure related to NGEU repayments. Under the roadmap, the Commission would propose five new own resources – three in 2021 and two in 2024 – and introduce them for the 2023 and 2026 financial years, respectively.

03 On 22 December 2021, the Commission proposed to amend the Own Resources Decision (ORD)¹¹ to introduce three new categories of own resources gradually as from 2023: a first based on the revised EU Emissions Trading System, a second based on the Carbon Border Adjustment Mechanism, and a third based on the share of the residual profits that are allocated to Member States from the largest and most profitable multinational enterprises. This proposal has not yet been adopted. At the same time, the Commission committed to proposing new rules for making the new own resources available in the first half of 2022.

⁹ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis, OJ L 433I, 22.12.2020, p. 23.

¹⁰ Inter-institutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources, (OJ L 433I, 22.12.2020, p. 28).

¹¹ Proposal for a Council Decision amending Decision (EU, Euratom) 2020/2053 on the system of own resources of the European Union, COM(2021) 570 final 2021/0430 (CNS).

04 On 14 March 2022, the Commission submitted a proposal to the Council for a regulation on the methods and procedure for making available own resources based on the Emissions Trading System, the Carbon Border Adjustment Mechanism and reallocated profits, and on the measures to meet cash requirements (the Proposal). On 30 March 2022, the Council asked the ECA to give an opinion on the Proposal.

New own resources envisaged to finance NextGenerationEU

Own resource based on the revised EU Emissions Trading System

05 The EU Emissions Trading System (ETS) is the EU's carbon market through which companies buy or receive emissions allowances. The Commission proposes that 25 % of the revenue generated from allowances, within the scope of the own resources, from emissions trading will accrue to the EU budget. This includes revenue from the current ETS for stationary installations and aviation for which additional allowances would be auctioned, as well as extending the ETS to maritime transport and introducing a separate emissions trading scheme for road transport and buildings.

06 The Commission also proposed in the ORD (see paragraph **03**) a temporary solidarity mechanism. The mechanism introduces a maximum contribution for lower-income and carbon-intensive Member States, and a minimum contribution for typically higher-income and low-carbon Member States. The Commission estimates that the ETS-based own resource will generate on average about €12 billion per year for the EU budget covering 2026-2030.

Own resource based on the Carbon Border Adjustment Mechanism

07 The Carbon Border Adjustment Mechanism (CBAM) puts a carbon price on imports in the EU whose production is subject to emissions, corresponding to what would have been paid if the goods had been produced in the Single Market. The adoption of the CBAM is currently under legislative discussion¹².

08 In order to import such products into the EU, importers will have to buy a CBAM certificate. The price of the certificates will be calculated on the basis of the weekly average auction price of ETS allowances, expressed in euros per ton of CO₂ emitted.

¹² Proposal for a Regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism – COM(2021) 564 final 2021/0214 (COD).

The Commission proposes that 75 % of the revenue collected by Member States under the CBAM will go to the EU budget. This mechanism is expected to start generating revenue for the EU budget after the transitional period planned for 2023-2025. It is estimated that the mechanism will generate on average about €1 billion per year for the EU budget in 2026-2030.

Own resource based on the share of the residual profits that are allocated to Member States from the largest and most profitable multinational enterprises

09 The Commission proposes that Member States will make a national contribution to the EU budget, based on the proportion of the residual profits that are reallocated to Member States from the largest and most profitable multinational enterprises (MNEs). Member States will be eligible to receive a share of the reallocated profits related to the goods or services provided by the MNEs that are used or consumed within their jurisdictions.

10 This own resource is based on the reform of the international tax framework agreed in October 2021 by more than 130 members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting. “Pillar One” of this agreement aims to allow participating countries to tax a share of the residual profits of the world’s largest MNEs, a proposal which is currently being discussed internationally. Consequently, the Commission has not yet adopted a proposal for sectoral legislation.

11 Under this proposed own resource, Member States would contribute to the EU budget 15 % of the proportion of MNEs’ taxable profits that are allocated to them. It is estimated that this own resource will generate between €2.5 and €4 billion of revenue per year to the EU budget.

Making own resources available

12 The “Making Available Regulations”, which complement the ORD, are pillars of the EU’s financing system. They establish the procedures and deadlines for making own resources available to the Commission, as set out below:

- Regulation No 609/2014 (the MAR1) deals with Traditional Own Resources (TOR), Value Added Tax (VAT)- and Gross National Income (GNI)-based own resources; and

- o Regulation 2021/770 (the MAR2) covers the new own resource based on plastic packaging waste that is not recycled.

13 If adopted, the proposed amendments to the ORD described in paragraphs **05** to **11** will introduce a further three own resources to the EU's financing system. These are currently under legislative discussion, but the Commission has already tabled a Proposal at this early stage to introduce a specific "Making Available Regulation" for the new own resources (MAR3) (see paragraph **04**). Our opinion on this Proposal is set out below.

The Proposal

14 According to the Commission, the Proposal adds practical arrangements, including control, supervision and review measures for the additional own resources proposed in the amended ORD. Its structure mirrors or replicates the provisions of MAR1 and MAR2 regarding the conservation of documents, administrative cooperation, accounts for own resources, treasury and accounting arrangements, and the management of cash resources.

15 The Proposal sets out rules for making the additional three own resources available. It also includes provisions about payments under reservation and review procedures, and interest payable if own resources are made available belatedly.

16 The Commission reiterates in the Proposal that the provisions for making all own resources available should be merged once agreement on the Proposal is reached in order to avoid the parallel existence of several Regulations (MAR1, MAR2 and MAR3), and to ensure legal coherence in line with the EU's Better Regulation agenda¹³.

¹³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Better Regulation: Joining forces to make better laws, COM(2021) 219 final of 29.4.2021.

Observations

General remarks

17 With the exception of the main component of the proposed ETS-based own resource, the sectoral legislation for the new own resources set out in the Proposal is not yet approved. The legislative process to extend the ETS to cover emissions from maritime and road transport and from buildings, and to adopt the CBAM, has not yet been finalised. The basis for calculating the residual profits that are allocated to Member States from the largest and most profitable MNEs has not yet been established, either. As work on the Multilateral Convention to implement the Organisation for Economic Cooperation and Development (OECD) and G20 Inclusive Framework on Base Erosion and Profit Shifting Agreement¹⁴ is currently ongoing, the Commission has announced that it will table a proposal for a Council directive in the course of 2022.

18 As a result of this, the Commission has not yet established internal procedures for managing the proposed new own resources. These comprise the procedures for calculating, establishing and recovering revenue. The lack of information available on the functioning of such processes restricts the scope of this Opinion.

19 We have reported in the past that the system of own resources is complex and lacks transparency¹⁵. Following the Commission's proposed amendment to the ORD that adds three new own resources, the Proposal introduces specific sets of rules and methods to make them available. These rules and methods are different from the ones that apply to existing own resources (see paragraphs **21** to **38**). Therefore, in our view, the EU financing system remains complex.

¹⁴ Statement on a two-pillar solution to address the tax challenges arising from the digitalisation of the economy, OECD/G20 Base Erosion and Profit Shifting Project, 8 October 2021.

¹⁵ In opinions 2/2012 and 2/2006, we expressed concerns about the complexity and lack of transparency of the current (and previous) systems of own resources for financing the EU budget.

Specific remarks

20 In addition to the points raised above, we make specific remarks on the following chapters of the Proposal (with reference to the relevant provisions):

- (a) General provisions (the proposed Articles 1 to 4);
- (b) Accounts for own resources (the proposed Articles 5 and 6);
- (c) Calculation of own resources (the proposed Articles 7 to 9);
- (d) Making own resources available (the proposed Articles 10 to 17);
- (e) Payment under reservation and review procedure (the proposed Articles 18 and 19);
- (f) Final provisions (the proposed Articles 21 and 22).

General provisions

21 The Commission proposes that the **period for conservation of supporting documents** should be three years for the ETS-based own resource and five years for the CBAM- and the reallocated-profit-based own resources¹⁶. The other existing own resources already have different periods for conservation of documents: three years for TOR, four years for the GNI- and VAT-based own resources, and five years for the own resource based on non-recycled plastic packaging waste. Although we note that the proposed periods for conservation of supporting documents vary, we welcome the fact that they are consistent with the deadline for correcting each own resource (see paragraph 32).

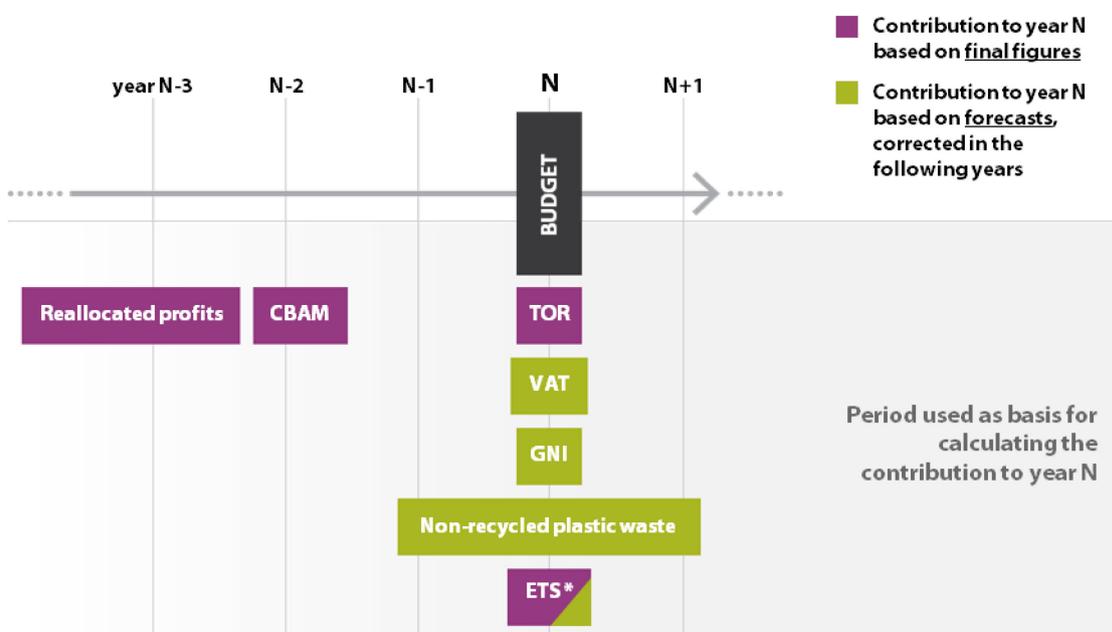
¹⁶ Article 2 of the Proposal.

Accounts for own resources

22 As regards entering own resources in the accounts, the Proposal provides for different **reference years to be used for calculating the contributions** for any given budget (see *Picture 1*):

- the budget year in the case of the ETS-based own resource¹⁷;
- two years before the budget year for the CBAM-based own resource¹⁸; and
- three years before the budget year in the case of the reallocated-profits-based own resource¹⁹.

Picture 1 – Calculation period for the different own resources



* ETS contributions are based on final figures, but the adjustments for the temporary solidarity mechanism (see paragraph 06) are based on forecasts.

Source: ECA, based on Council Regulation (EU, Euratom) 2021/770, Council Regulation (EEC, Euratom) No 609/2014 and the Proposal.

23 While the approach proposed for the ETS-based own resource is similar to the one used for TOR, the proposed approach for the CBAM- and reallocated-profits-based own resources disconnects the reference year for calculating the national contributions from the year that they are needed for the EU budget. This means that

¹⁷ Articles 5(3) and 7(1) of the Proposal.

¹⁸ Articles 5(4) and 8 of the Proposal.

¹⁹ Articles 5(5) and 9 of the Proposal.

the Member States' contribution to the EU budget is not linked to the given reference year in which expenditure has to be financed.

24 The approach to the CBAM- and reallocated-profits-based own resources diverges from the existing approaches used for currently operational own resources and the proposed ETS-based own resource. The GNI-, VAT- and non-recycled-plastic-waste-based own resources are all budgeted on the basis of forecasts of the amounts for the budget year. These are established in advance and then adjusted in the following years (through the mechanism of balances and adjustments to balances). However, we acknowledge that the proposed method for the CBAM- and reallocated-profits-based own resources increases predictability. This may also reduce the administrative burden involved in managing own resources, because there is no need for a balancing procedure in future years.

Calculating own resources

25 The proposed methods for calculating the three new own resources²⁰ are highly dependent on the approval of the amendment to the ORD proposed by the Commission, the approval of the sectoral legislation under legislative discussion or to be proposed, and the development of procedures for managing them (see paragraphs 17 and 18). Therefore, we cannot make a comprehensive assessment of the proposed provisions for calculating these new sources of revenue.

Making own resources available

Timing for making the own resources available

26 The Commission proposes that the new own resources will all be made available on the first working day of the month:

- o the ETS-based own resource will be made available on the first working day of the second month following the month during which the entitlement was established²¹;

²⁰ Articles 7 to 9 of the Proposal.

²¹ Article 11 of the Proposal.

- o the reallocated-profits-based own resource will be made available on the first working day of each month (the amounts shall be one twelfth of the statement sent by the Member States in the previous year)²²;
- o for the CBAM-based own resource, funds will be made available annually on first working day of February²³.

27 Existing own resources are also made available on the first working day of each month (with the exception of TOR, which are made available on the first working day following the 19th day of the second month following the month during which the entitlement was established). We welcome the alignment of the timing for making own resources available.

Balancing, corrections and adjustments

28 The Proposal includes a procedure for balancing the “total adjustment amount”²⁴ to the ETS-based own resource²⁵. This procedure is aimed at incorporating the most recent GNI and ETS data in order to adjust in subsequent years the contributions that the Member States have made in a given year. The Commission would inform the Member States by 1 February of the results of this balancing procedure, and each Member State would enter the net amount resulting from it in the accounts on the first working day of March of the following year.

29 The Proposal also sets out provisions for correcting and adjusting the CBAM²⁶ and the reallocated-profits-based own resources²⁷. These corrections and adjustments will modify the contributions made in a given year, and be recorded in the statement for the following year. For the CBAM-based own resource, the Member States will make the amounts of the particular adjustments available on the first working day of February of the year following the year in which each Member State sent its annual statement. For the reallocated-profits-based own resource, the adjustments would be made available in twelfths, on the first working day of each month, in the year following the year in which each Member State sends its annual statement. The

²² Article 15 of the Proposal.

²³ Article 13 of the Proposal.

²⁴ Article 7(4) of the Proposal.

²⁵ Article 12 of the Proposal.

²⁶ Article 14 of the Proposal.

²⁷ Article 16 of the Proposal.

proposed provision does not indicate when the Commission should inform the Member States of these corrections and adjustments, with a view to including them where necessary in the next annual statement. Setting a deadline would further improve predictability for Member States.

30 The proposed procedures vary in some aspects from those that apply to existing own resources. For the VAT- and GNI-based own resources, the results of the balancing procedure, which includes some corrections, are notified by the Commission by 1 February, and each Member State enters the net amount in the accounts on the first working day of March of the following year. For the non-recycled-plastic-waste-based own resource, the amounts will be made available on the first working day of June of the same year.

31 Although we acknowledge that balances to forecasts, and corrections and adjustments to revenue collected may follow different rules, they all have the same objective of revising the amounts of own resources made available in previous years. We therefore believe that there is room for harmonisation in order to reduce complexity.

Deadline for corrections

32 The Commission proposes that the ETS-based own resource should no longer be changeable after 31 December of the third year following the year in question²⁸. This is the same deadline as for TOR. For the CBAM- and the reallocated-profits-based own resources, the proposed deadline for changes is 31 July of the fifth year²⁹. In *Table 1*, we compare the correction deadlines for proposed and existing own resources. Each own resource has a different deadline after which any changes made can no longer be taken into account for own resources purposes. Even though these differences can be justified to a certain extent by the specific features of each own resource, we believe that there is room for better alignment of the deadlines for making corrections.

²⁸ Article 6 of the Proposal.

²⁹ Articles 14(3) and 16(3) of the Proposal.

Table 1 – Deadline for corrections (time-barring) for the different own resources

Type of own resource 	Legal basis 	Deadline for corrections 
TOR	Regulation 609/2014 (MAR1)	31 December of the <u>third year</u>
VAT-based own resource	Regulation 1553/1989	31 July of the <u>fourth year</u>
GNI-based own resource	Regulation 609/2014 (MAR1)	30 November of the <u>fourth year</u>
Non-recycled plastic packaging waste-based own resource	Regulation 2021/770 (MAR2)	31 July of the <u>fifth year</u>
ETS-based own resource	Proposal (Article 6)	31 December of the <u>third year</u>
CBAM-based own resource	Proposal (Article 14)	31 July of the <u>fifth year</u>
Reallocated profits-based own resource	Proposal (Article 16)	31 July of the <u>fifth year</u>

Source: ECA, based on Council Regulation (EU, Euratom) 2021/770, Council Regulation (EEC, Euratom), No 1553/1989, Council Regulation (EEC, Euratom), No 609/2014 and the Proposal.

Interests on amounts made available belatedly

33 Interest payable on amounts belatedly made available is calculated in accordance with the approach stipulated in MAR1, including a threshold of €1 000 below which recovery interest is waived³⁰. We welcome the fact that this mirrors the value set for TOR and VAT- and GNI-based own resources, but note that the threshold for waiving the recovery interest on amounts made available belatedly in connection with the non-recycled-plastic-waste-based own resource is only €500³¹.

³⁰ Article 17 of the Proposal.

³¹ See Article 11(3) of Council Regulation (EU, Euratom) 2021/770 of 30 April 2021 on the calculation of the own resource based on plastic packaging waste that is not recycled, on

Payment under reservation and review procedure

34 **Payment under reservation** is only allowed in the cases of the CBAM- and the reallocated-profits-based own resources³². Such procedures also exist for TOR and for the VAT-based own resource. However, we note that for the ETS-, GNI-, and non-recycled-plastic-waste-based own resources, the existing and proposed rule do not provide for such a possibility.

35 The Proposal indicates that the **review procedure** applies to the CBAM- and the reallocated profits-based own resources³³. This is very similar to the procedure for TOR, which was recently introduced by MAR1³⁴. However, such a procedure is different from the ones set out in Council Regulation (EEC, Euratom) 1553/89 for the VAT-based own resource and in MAR2 for the non-recycled-plastic-packaging-based own resource. In addition, we note that the Commission has not proposed introducing a review procedure for the ETS-based own resource. In **Table 2**, we present a comparative analysis of the applicable reviews for the proposed and existing own resources.

the methods and procedure for making available that own resource, on the measures to meet cash requirements, and on certain aspects of the own resource based on gross national income.

³² Article 18 of the Proposal.

³³ Article 19 of the Proposal.

³⁴ Council Regulation (EU, Euratom) 2022/615 of 5 April 2022 amending Regulation (EU, Euratom) No 609/2014 in order to enhance predictability for Member States and to clarify procedures for dispute resolution when making available the traditional, VAT and GNI based own resources, OJ L 115, 13.4.2022, p. 51.

Table 2 – Comparison between the review procedures for own resources under existing legal acts and those under the Proposal

Type of own resource	Legal basis	Procedure ends with a Commission decision	Possibility for the Member State to bring an action for annulment before the Court of Justice of the European Union (CJEU)	Possibility for the Member State to bring an action for unjust enrichment before the CJEU
▼	▼	▼	▼	▼
TOR	Regulation 609/2014 (MAR1)			
VAT-based own resource	Regulation 1553/1989			
GNI-based own resource	Regulation 609/2014 (MAR1)	No review procedure envisaged		
Non-recycled plastic packaging waste-based own resource	Regulation 2021/770 (MAR2)			
ETS-based own resource	Proposal	No review procedure envisaged		
CBAM-based own resource	Proposal			
Reallocated profits-based own resource	Proposal			

Source: ECA, based on Council Regulation (EU, Euratom) 2021/770, Council Regulation (EEC, Euratom), No 1553/1989, Council Regulation (EU, Euratom), No 609/2014 and the Proposal.

36 In opinion 2/2021, we suggested that a single review procedure for making own resources available should be proposed, as having different review procedures makes the system for EU financing more complex. We maintain this position and reiterate that “such a procedure should ensure a balance between the Member States’ right of defence, potential administrative burden for the Commission and the specific characteristics of individual sources of revenue and their respective legal framework”³⁵.

³⁵ See suggestion 2 of opinion 2/2021.

Final provisions

37 The Commission proposes that the current regulation should apply from 1 January 2023. However, the provisions on the **entry into force** of the reallocated-profits-based own resource will apply from the date of application of a directive yet to be prepared and approved, or the day the Multilateral Convention enters into force, whichever is later³⁶. This creates uncertainty about when the effects of this own resource will begin to be seen.

38 In addition, we note that the proposed changes to the ETS Directive (see paragraph **05**) and to the CBAM sectoral legislation (see paragraph **07**) may not be approved by 1 January 2023, which might delay the application of the associated own resources and have a significant impact on Member States' budgets due to national contributions being calculated retroactively when the ORD comes into force.

³⁶ Article 22 of the Proposal.

Proposed amendments to the Proposal

39 In the *Annex*, we set out minor suggested changes to and comments on a specific point concerning the Proposal. We do not suggest any amendment where rules for making new own resources available differ, when compared with those that apply to the existing TOR, GNI-, VAT-, and non-recycled-plastic-based own resources.

Conclusions

Progress made on introducing new own resources

40 We welcome the Proposal that the Commission adopted as part of the roadmap towards introducing new own resources, included in the IIA under the 2021-2027 MFF. It uses a structure mirroring the existing MAR1 and MAR2 (see paragraph 14), and will thus make it easier to consolidate the rules on making own resources available in the future.

41 We take note of the new approaches and methods proposed by the Commission for the design of the new sources of revenue, in particular as regards calculating the CBAM- and reallocated-profits-based own resources, which use actual data instead of forecasts, and thus avoid the need for balancing (see paragraph 24). In our view, these help to increase predictability, and may reduce the administrative burden of managing own resources.

Need for more consistency in the rules for managing own resources

42 We note that the rules which the Proposal introduces for managing own resources are not always consistent with those set out in Council Regulation (EU, Euratom) No 609/2014 (applicable to the TOR, GNI- and VAT-based own resources), Council Regulation (EU, Euratom) 2021/770 (applicable to the own resource based on non-recycled plastic packaging waste), and Council Regulation (EEC, Euratom) No 1553/89 (applicable to the VAT-based own resource).

43 Although we note the specific features of the new proposed own resources, we are of the view that more alignment is possible in terms of the reference years used to calculate them (see paragraphs 22 to 24), the processes of balancing and adjusting them (see paragraphs 28 to 31), deadlines for corrections (see paragraph 32), the threshold for waiving interest on payments made belatedly (see paragraph 33), and review procedures (see paragraphs 35 and 36). We suggest that the Commission should consider reducing the differences between the rules as much as possible, at the latest when merging MAR1, MAR2 and MAR3.

Need for all rules for making own resources available to be consolidated in a single legislative act

44 In its Proposal, the Commission takes the view that all provisions for making own resources available should be merged in the future when new sources of revenue are agreed. Although we take note of this objective, we also note that the merger of all these provisions has not yet been proposed. We reiterate that a single legislative act with a comprehensive set of provisions for making own resources available would make the system simpler and more transparent³⁷. We urge the Commission to propose that all rules should be consolidated in a single “Making Available Regulation”.

Insufficient details to make an appropriate assessment

45 Even though our observations are based on public information and other data collected from the Commission, the Proposal is mostly based on the Commission’s proposals for EU sectoral legislation or on preparatory work leading up to such proposals (see paragraph 17). These are key documents which allow us to issue a well-informed Opinion, as required by Article 322(2) TFEU.

46 As these new own resources are an important element of the system for EU financing, we would welcome that the European Parliament and the Council consult us again when full details are available about the functioning of the own resources based on the CBAM- and the reallocated-profits-based own resources.

This Opinion was adopted by Chamber 5 headed by Mr Tony Murphy, Member of the Court of Auditors, in Luxembourg on 5 July 2022.

For the Court of Auditors



Klaus-Heiner Lehne
President

³⁷ Paragraph 12 of opinion 5/2018 and paragraph 37 of opinion 2/2021.

Annex

Our suggested changes and comments concerning the Proposal

Text of the proposal	Suggested change	Comment
<p>Article 5 (5)</p> <p>“Each Member State shall send to the Commission by 31 July ..., calculated in accordance with Article 15, ...”</p>	<p><i>Each Member State shall send to the Commission by 31 July ..., calculated in accordance with Article 159, ...”</i></p>	<p>The text in the Proposal contains an incorrect reference to the relevant Article.</p>