COMMISSION OF THE EUROPEAN COMMUNITIES

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# REPORT

**on**

# THE RECOVERY OF TRADITIONAL OWN RESOURCES IN CASES OF FRAUD AND IRREGULARITIES
**(Sample B98)**

**(presented by the Commission)**

# CONTENTS

***Summary***

This report outlines the progress made in recovering traditional own resources in nine cases of fraud and irregularities selected from those reported by the Member States as being particularly important by reference to the selection criteria laid down by the Commission. The traditional own resources involved are put at around ECU 136 million, some 10% of the total still to be recovered.

Further information is also given on previous cases dealt with in the report of 9 June 1997 (Report B 94).

Although its statistical significance must be limited to these samples, comparison with the sample in the previous report shows that recovery has become far more effective and that Member States are more efficient in producing the data needed by the Commission. However, this conclusion cannot necessarily be extended to the whole base.

The actual rate of recovery has in fact risen from 2% in report B 94 to 12% in this report and the proportion of cases out of time has dropped sharply from 12% to 4%. Although results are generally still poor for recovery in cases of fraud or irregularities, over 50% of the amounts evaded through the production of invalid preference certificates are now recovered.

However, there are still a number of problems calling for improvement. This report analyses the main causes and sets out the possible solutions proposed by the Commission.

## INTRODUCTION

This report outlines the progress made in recovering traditional own resources in nine cases of fraud and irregularities selected from those reported by the Member States as being particularly important in view of the selection criteria laid down by the Commission. The traditional own resources involved are put at around ECU 136 million.

Under Community law,[1] the collection of traditional own resources is delegated to the Member States, which are obliged to make every effort to ensure that these resources are established, entered in the accounts, recovered and made available as efficiently as possible.

Community law stipulates that the Member States transfer the traditional own resources actually recovered, but also obliges them to keep a separate account of entitlements not yet recovered or in dispute and send the Commission a statement of these amounts every quarter, as provided for in Article 6 of Regulation No 1552/89.

One of the Commission's permanent tasks is to monitor recovery of traditional own resources, particularly when this is threatened by cases of fraud or irregularities. There are a number of reasons why monitoring is necessary:

- from the economic angle, to protect the single market;
- to maintain equity between economic operators in the Community;
- for the breakdown of budget contributions between the Member States and between economic operators and taxpayers, since the mechanism for financing the fourth resource offsets any loss of revenue from traditional own resources.

Given the very high number of cases reported on fraud[2] and mutual assistance[3] forms (over 2 000 per year), the Commission has established a monitoring method based on samples.

- An initial sample of six cases was already considered in report B94,[4] which revealed a worrying situation as regards the recovery of traditional own resources which have been evaded.
- Sample B98 was also drawn up on the basis of mutual assistance reports (AM forms), by selecting a number of cases based on the criteria set out below.

This report, which outlines the recovery situation at 1 December 1998 in respect of the nine cases selected, reaches more encouraging conclusions than the previous report. These nine cases were monitored up to final clearance, i.e. total or partial recovery, cancellation of establishment or a decision to write off the amount. This report also contains an update on the six cases dealt with in report B94.

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1 Council Decision 94/728/EC, Euratom of 31 October 1994 on the system of the European Communities' own resources and Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989.

2 Article 6(4) of Regulation No 1552/89 for amounts exceeding ECU 10 000.

3 Council Regulation (EC) No 515/97 of 13 March 1997 (OJ L 82, 22.3.1997).

4 Report on the recovery of traditional own resources in cases of fraud and irregularities (Sample B94) (COM(97) 259 final, 9.6.1997.

As regards the time limits which have expired in some cases, a distinction should be drawn between two types of situation:

those which expired before the Community visit or other operations to identify the irregularity and estimate the financial impact;

those which expired after the Member States received relevant information enabling them to enter in the accounts and even establish the amounts.

In the latter case, those Member States which have been negligent are informed that they are held liable for the loss suffered by the Community budget.

## 1. SELECTION OF THE SAMPLE AND CHARACTERISATION OF CASES

### 1.1 Selection of sample B98

Among the cases of fraud or irregularities discovered since the second half of 1993 and reported to it by means of an AM form in accordance with the Regulation on mutual assistance,[5] the Commission has selected a new sample B98 on the basis of the following criteria:

- very high cost to the Community budget, i.e. over ECU 1 million;
- investigations carried out by the Commission;
- responsibility for recovery shared by a number of Member States;
- time-limit approaching;
- interest shown by the budgetary authority and the Court of Auditors in certain cases of fraud or irregularities.

Of the forty or so cases recorded on the basis of the above criteria between 1993 and 1995, the following nine cases, in which investigations could be considered closed at the end of 1997 and which broadly satisfy the first two criteria and at least one of the three others, were included in the sample:[6]

- fraudulent reimportation of **sugar exported with a refund;**
- fraudulent importation of **cheese from Switzerland;**
- fraudulent removal of **bananas** from transit arrangements;
- fraudulent importation of **Hilton beef from Argentina**;
- application of preferential arrangements to **canned tuna imported from Costa Rica** on the basis of improperly issued EUR 1 certificates;

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5 See Article 19 of Regulation No 1468/81, which has been replaced since 13 March 1998 by Article 45 of Regulation No 515/97.

6 Two cases were discovered in 1992, but their importance did not become apparent until 1993 (car radios from Indonesia) and 1995 (clothing from Laos).

- application of preferential arrangements to **clothing imported from Laos** on the basis of forged or wrongly issued EUR 1 certificates;

- application of preferential arrangements to **textiles imported from Cambodia** on the basis of forged or wrongly issued EUR 1 certificates;

- application of preferential arrangements to **car radios imported from Indonesia** on the basis of wrongly issued EUR 1 certificates;

- application of preferential arrangements to **bicycles imported from Vietnam** on the basis of wrongly issued EUR 1 certificates.

As regards the recovery of the traditional own resources involved in cases of fraud and irregularities, the Commission has to examine cases in which the investigations have been completed, leaving no doubt about the existence of the debt and the identity of the debtor.

In the nine cases chosen, the long period leading to initial post-clearance recovery could not have been reduced.

The first reports on these cases of fraud or irregularities are based on initial suspicions. The Community visit does not always take place right away and investigations in the Member States have to be extended as a result. It therefore takes a relatively long time before recovery notices can be sent to the debtors and sometimes these debtors are able to challenge the decision by the national authorities.

It is up to the national authorities to take every measure necessary to establish the debt before time is out.

The main information on the composition of this sample is set out in Table 1 in the annex. Two Member States (Luxembourg and Sweden) are not involved in any of the nine cases in the sample.

According to estimates based on the AM forms before questions were put to the Member States, this sample involved a total of around ECU 104 million in traditional own resources.

After the Member States were contacted, the amount recovered or still to be recovered in these nine cases turned out to be ECU 136 million.

### 1.2 Information on the recovery situation

For compiling information on the progress which the national authorities have made in recovering amounts from debtors, the Commission relies first on fraud forms and updates. However, it is not always possible to track down all the fraud forms in a Member State for a given case of fraud, which is usually recorded on an AM form. In addition, AM cases are not systematically covered by fraud forms, which are in any case only for cases involving more than ECU 10 000.

The Directorate-General for Budgets therefore asked for information from the national departments concerned, either by letter or during the inspections of traditional own resources conducted on the basis of Article 18(2) or (3) of Regulation No 1552/89 (joint inspections/on-the-spot inspection measures).

In compiling these data, the Commission made sure, before contacting the Member States, that this information had not already been reported during previous inspections by various departments or other institutions (Court of Auditors).

These contacts enabled the Commission to update the recovery data provided by national departments in the cases monitored (amounts already made available, amounts awaiting recovery and amounts which are time-barred).

Although it is aware of the workload this imposes on the national authorities, the Commission considers that it must continue this exercise in order to update the factual information relating to certain AM cases since it is not possible to obtain all the information necessary from the individual fraud forms which are limited to amounts exceeding ECU 10 000.

The data for each Member State are set out in the annex, with a table for each case monitored.

## 1.3 Characterisation of cases

The nine cases selected fall into a number of categories reflecting the different types of dispute involved.

### *1.3.1 Proven fraud*

Three cases - **sugar, Swiss cheese** and **bananas** - are *deliberate infringements* of existing rules by economic operators. They therefore constitute proven fraud and there can be no doubts as regards the offenders' intentions.

### *1.3.2 Irregularities or suspected fraud*

- In two cases - **clothing from Laos** and **textiles from Cambodia** - importers asked for preferential treatment when presenting their goods for customs clearance, on the basis of certificates which Community inspections later revealed to be forged or wrongly issued by the authorities in the exporting countries. These cases constitute irregularities as regards the use of wrongly delivered certificates, whereas the good faith of the economic operators can be called into question and fraud may have occurred only in the cases of presentation of forged certificates.

- In three other cases - **tuna from Costa Rica, car radios from Indonesia** and **bicycles from Vietnam** - importers asked for preferential treatment on the basis of certificates which Community inspections later revealed to be forged or wrongly issued by the authorities in the exporting countries. As a result, these importers *found themselves in an irregular situation*, having incurred a customs debt for which they were liable retrospectively.

- In one case - **Hilton beef** - importers presented *false certificates of authenticity* in support of their application for a total suspension of the levy on beef imported under a Community tariff quota. The importers appealed against the recovery notices issued for most of the imports by invoking their good faith.

*1.3.3 Significance of the distinction*

The distinction between proven fraud and irregularities or suspected fraud is relevant for two reasons: in relation to the period of limitation and from a procedural point of view.

First, in the case of fraud liable to criminal prosecution, the national limitation period applies while, for irregularities not liable to prosecution, the normal period of limitation of three years is that stipulated in Article 221 of the Customs Code.

Second, the distinction is essential for determining the action to be taken by the national authorities to recover the traditional own resources at stake.

- **In the case of proven fraud**, investigation departments normally seek to identify the perpetrators and determine their criminal and financial responsibility. However, evidence of the fraudulent activity is generally found on national territory or in other Member States, although missions to exporting countries outside the Union may sometimes prove necessary.

- **In the case of irregularities or suspected fraud** where certificates entitling goods to preferential treatment are subsequently found to be invalid, evidence of their invalidity can be obtained only by investigating the firms that produced the goods in the exporting countries.

  In the six cases contained in the present sample, Community missions of inquiry to the non-member countries established that the certificates issued for the imports in question were invalid or even forged. In some of the cases in this category, the liability of specific operators could not be established even though the information at the Commission's disposal showed that fraud was involved.

## 2. DESCRIPTION OF CASES SELECTED AND PROGRESS IN RECOVERY

### 2.1 Proven cases of fraud

#### *2.1.1 SPANISH SUGAR (AM FORM 53/93)*

**Background**

A. Between 27 May 1992 and 3 April 1993 an organisation, acting through companies based in tax havens, fraudulently unloaded in Spain nine ships carrying 13 200 tonnes of sugar exported with a refund from Antwerp and supposedly destined for the Republics of the former Soviet Union. Three ships were unloaded before 10 September 1992, three between 10 September 1992 and 22 January 1993 and three after this date. The final consignment of 2 000 tonnes was seized by Spanish customs in the port of Bermeo on 3 April 1993.

   On 10 September 1992, Alicante customs already asked the Belgian customs authorities to conduct a post-clearance check of a T2L ES document issued by Antwerp customs and presented in support of the Community status of the sugar to which it related.

On 22 January 1993 the Belgian authorities replied that the document in question had been forged and that the sugar to which it referred had been declared for export with an agricultural refund.

In the same letter the Belgian authorities informed Spanish customs that other ships with a similar cargo had also been cleared through customs at Antwerp in the same circumstances and might be unloaded in Spain. The checks carried out by the Spanish authorities revealed that these ships had actually unloaded sugar of alleged Community origin under cover of T2L ES documents in Spanish ports. The Belgian authorities confirmed that the T2L ES documents presented in Spain were all forgeries and related to sugar declared to be en route from Antwerp to non-Community countries with an export refund.

The reimportation of this sugar which had previously been exported with a refund incurs a customs debt; import duty has to be charged on the sugar and the export refund which should not have been paid must be recovered. The debt relating to the refund and the debt relating to the import levy result from two different operations in two distinct situations which must be assessed separately in line with the relevant rules. The import debt has been estimated at ECU 4.8 million (ESP 793 052 731).

B. The Spanish authorities subsequently sent the Commission **a number of requests for most of the ECU 4.8 million to be written off** under Article 17(2) of Regulation No 1552/89. Under this procedure, the amounts are removed from the separate account for own resources and the Member State no longer has to make them available.

The Commission rejected the **first request** made on 7 April 1995 in respect of ESP 148 000 000 (fraud form of 19.6.1993) as the Spanish authorities had obviously been negligent in protecting the Community's financial interests. Although the Belgian authorities had stated that there was a serious suspicion that the operations were fraudulent, the Spanish authorities had not questioned the authenticity of the forgeries presented with the goods and had not taken any immediate precautionary measures (establishing the traditional own resources at risk or demanding a security).

On 19 October 1995 the Spanish authorities sent the Commission **a second request** under Article 17(2) relating to ESP 237 397 128 (fraud form of 25.6.1993) and ESP 65 790 000 (fraud form of 18.6.1993). The Commission rejected the request in respect of the ESP 237 397 128 because of negligence by the Spanish authorities, while the request relating to ESP 65 790 000 was considered premature as the debtor firm's bankruptcy had not been concluded when the request was made.

The Spanish authorities sold the 2 000 tonne cargo from the ship after it was confiscated by customs and the money raised was passed on to the Spanish legal authorities as this confiscation was the result of a court procedure.

The Spanish customs stated that the remaining ESP 341 865 603 could not be recovered and that it would submit a **further request** under Article 17(2) when it was in full possession of the facts. So far, the Commission has not received this information.

**Recovery situation**

- The Spanish authorities have not replied to the Commission's repeated requests for information on any legal procedures which may have been initiated in Spain in respect of these imports and, according to the information at the Commission's disposal, have failed to take any anti-fraud measure apart from seizure of one ship. However, similar action should have been taken for all the ships since they were all in the same irregular situation.

  The Spanish authorities have thus failed to prosecute the accomplices to the fraud and merely took formal measures against cover firms, which are dealt with separately. These measures led to nothing more than a request for Community entitlements to be written off after these shell companies engineered their insolvency.

  In particular, the breakdown of the total into four separate requests for amounts to be written off shows that an attempt has been made to make independent importers responsible for payment of the debt. However, the information available to the Commission shows that the unloading of nine consignments of sugar constitutes a single case of fraud and the shell companies involved were guilty of collusion. They should have been considered as accomplices and held jointly liable for the customs debt. The requests to write off these amounts therefore had to be rejected.

– ***Overall recovery figures (amounts shown in Table 2):***

| | | | |
|---|---|---|---|
| A account | 0.1% | | |
| B account | 99.9 % | (Art. 17(2) | 57%) |

- No own resources appear to have been collected in respect of the customs sale of the seized cargo.

**Measures taken or to be taken**

- The Commission asked Spain to apply the relevant duties and taxes to the receipts of the customs sale of the one cargo seized and to pay the corresponding own resources to the Community.

– The Commission did not accept the Member State's requests for these amounts to be written off. As regards the requests to write off ESP 148 000 000 and ESP 237 397 128, in December 1997 it asked the Spanish authorities to make available the entitlements which had not been recovered as a result of their negligence.

  As no reply was received within the time limit laid down, the Commission sent a reminder to Spain on 30 September 1998. Infringement proceedings appear inevitable if the amounts are not paid before the deadline.

*2.1.2 SWISS CHEESE (AM FORM 3/95)*

**Background**

Emmental, Gruyere and Sbrinz qualify for a reduced rate of duty into the Community if they comply with the rules concerning the minimum free-frontier price (equal to or higher than the reference price introduced by Community legislation).

To qualify for the preferential rate for imports of their cheese into the European Union, producers of these Swiss cheeses must operate via the USF (Union suisse du commerce de fromage) to obtain a document showing that they comply with the minimum price (document IMA.1).

In this case, however, a considerable volume of Emmental cheese exported to companies in France, Germany and Italy for processing was imported into the European Union under cover of invoices recording higher prices than the minimum of ECU 372/100 kg laid down by Regulation (EEC) No 1767/82, but the Community importers were subsequently refunded part of the selling price.

The minimum import price was thus no longer respected, giving rise to an import debt.

The French customs authorities noted this irregularity with four importers. Similar investigations were carried out on four companies in Germany.

A Commission team visited Bern in May 1995 with the agreement of the Swiss federal authorities and drew up a list of cases for the period between 1992 and 1995. Court proceedings were subsequently initiated in Switzerland against a number of members of the Union Suisse du Commerce du Fromage who were charged with this fraud.

On the other hand, the Italian authorities investigated their main importers on the basis of the findings obtained during the visit.

**Recovery situation**

The evaded entitlements reported by the Member States when they monitored recovery - ECU 52.5 million - are far higher than estimated on the basis of the AM form. Italy, which imported virtually all of the cheese, established ECU 47.5 million, as against the ECU 13 million initially estimated.

– ***Overall recovery figures (amounts shown in Table 3):***

| | | A account 9% | B account 91% |
|---|---|---|---|
| of which | F | 100% | |
| | I | | 100% |
| | D | 100% | |

**Measures taken or to be taken**

– About one tenth of the total involved has been recovered by the French and German authorities alone.

As regards the twenty cases of irregularities covered by the Italian authorities, recovery notices were sent to the companies involved in order to suspend the statute of limitations. These cases were referred to the judicial authorities and the criminal procedure is now at the investigation stage. Recovery will thus largely depend on the decisions reached by the Italian courts.

### *2.1.3 BANANAS (AM FORM 72/94)*

**Background**

On the basis of information supplied by Belgian and German customs, an inquiry coordinated by the Commission revealed large-scale trade in bananas which were imported illegally into Italy without any customs duties or agricultural levies.

Bananas from Central and South America, in particular from Colombia, Honduras, Panama, Ecuador and Costa Rica, were unloaded at a number of Community ports (in Belgium, Germany and the Netherlands) in 1993. The goods were then sent from Zeebrugge, Bremen and Rotterdam under cover of T1 documents to Austria where new T1 documents were issued for the same goods to be sent to Ancona before being exported to various non-member countries, Turkey and Albania.

However, the goods concerned did not receive their customs-approved treatment or use, but were fraudulently sold on the Italian market and the corresponding T1 documents were not discharged.

The Italian authorities revealed in particular that 298 consignments of bananas from South America had been smuggled into Italy between 21 July and 24 November 1993.

As a result of the inquiry, the Italian firms receiving the goods were identified and eight persons were arrested for smuggling. Their personal assets were seized.

**Recovery situation**

At present, 90% of entitlements evaded are entered in the B account while 10% have already been recovered. The high proportion of amounts established in the B account is mainly due to the criminal proceedings for smuggling initiated against some of the offenders, but sixteen appeals have also been lodged against the recovery notices in respect of the customs duties evaded.

Although Italy is the only Member State affected by this fraud, its elimination was the result of collective action as the Member States cooperated with each other in the course of the inquiry.

– ***Overall recovery figures (amounts shown in Table 4) :***

| | |
|---|---|
| Amount recovered in Italy in A account | LIT 1 015 481 460 |
| Amount entered in Italy in B account | LIT 9 224 261 250 |

**Measures taken or to be taken**

The Commission asked the Italian authorities about the likelihood of recovery and the progress made in the court proceedings on which any recovery might hinge.

As regards recovery, sixteen of the taxable persons have appealed to civil courts against the recovery notices, but in nine of the proceedings the courts have already ruled in first instance in favour of the Italian administration. The customs service has initiated the enforced recovery procedures.

As regards the criminal proceedings, three of those charged have already been sentenced in first instance and six others are still on trial.

Given the complexity of the procedures in question, no major decisions or results are to be expected in the near future as regards recovery.

### *2.1.4 HILTON BEEF (AM FORM 52/93)*

**Background**

Since 1980, under the General Agreement on Tariffs and Trade (GATT), the Community has been obliged to open an annual duty-free Community tariff quota for imports of high-quality beef from Argentina.

In accordance with these obligations, for 1991 and 1992 the Council adopted Regulations (EEC) No 3840/90 of 20 December 1990 and No 3668/91 of 11 December 1991 opening a Community tariff quota for high-quality fresh, chilled or frozen meat of bovine animals (Hilton beef). Meat imported under this quota is subject only to the 20% duty applicable under the Common Customs Tariff.

To obtain the total suspension of the import levy on this meat, a certificate of authenticity issued by the appropriate issuing agency in the country of export has to be presented in the Community.

In December 1992 the Argentine authorities contacted the Commission about the possibility of fraud involving imports of Argentine beef into Germany and asked for its cooperation in clearing up the case. In October 1992 the Argentine embassy in Bonn had already written to the German authorities about a suspected irregularity concerning various certificates of authenticity.

Following the Commission's call for an investigation, the Argentine authorities sent a reply in April 1993 stating that 251 copies presented in Germany did not correspond to the certificates issued by the appropriate agency in Argentina.

Community teams visited Argentina with the collaboration of the local authorities in November 1993 and April-May 1994 and found that the particulars relating to quantity or quality on more than 460 certificates of authenticity presented in the Community in 1991 and 1992 for imports of high-quality fresh and chilled Hilton beef had been forged or altered after issue. The main Member State involved was Germany, which is by far the largest purchaser of Hilton beef from Argentina in the Community (80%). Other forged certificates were presented in the United Kingdom, Spain, France, Italy and the Netherlands.

Overall, more than 4 500 tonnes of meat entered the Community with false certificates of authenticity in this way in 1991 and 1992 and the investigators initially estimated that ECU 18 million had been lost in levies as a result.

**Recovery situation**

The evaded entitlements reported by the Member States when they monitored recovery are higher than estimated and exceed ECU 26 million.

Most of the evaded entitlements are in the B account as virtually all the importers have lodged appeals.

In Germany, the main country involved, four firms lodged an appeal with the Court of First Instance in 1996 against the Commission's refusal to allow remission of import duties totalling DEM 11 777 947 under the Community rules on repayment and remissions.[7]

On 19 February 1998 and 21 September 1998 the Community's Court of First Instance made two rulings annulling two decisions by the Commission not to repay DEM 11 412 736 (REM 5/95) and DEM 365 210 (REM 8-11-12/95) respectively. It considered that the Commission had violated the rights of the defence by not giving a hearing to the firms involved during the administrative procedure to examine the applications made by the Member State concerned.

The Court of First Instance also concluded that the Commission had not been able to provide evidence of manifest negligence on the part of the importer.

Finally, the Court of First Instance judged that the falsifications made it possible for the quota for the importation of Hilton beef at a reduced rate to be exceeded to a significant extent because of certain anomalies in supervising and monitoring application of the quota at Community level in 1991 and 1992. In those circumstances, the falsifications, which, moreover, were carried out in a very professional way, exceeded the normal commercial risk which must be borne by the applicants and shortcomings in the application of the quota could constitute a special situation within the meaning of the Regulation.

On 24 April 1998 the Commission appealed against the ruling of 19 February 1998 by the Court of First Instance and is now preparing an appeal against the ruling of 21 September 1998.

– ***Overall recovery figures (amounts are shown in Table 5)***

| Member State | A account | B account | Not entered in B |
|---|---|---|---|
| Germany | 0.42% | 99% | 0.58 % |
| Spain | | 100% | |
| France | | 100% | |
| Italy | | 100% | |
| Netherlands | 100% | | |
| United Kingdom | | 100% | |
| **Overall** | **0.44%** | **99.20%** | **0.36%** |

**Measures taken or to be taken**

Table 5 shows that most of the cases are subject to court proceedings in the Member States and their outcome will inevitably be influenced by the judgment which the Court of Justice will reach on the Commission's appeal.

According to information at the Commission's disposal, ECU 94 622 was not entered in the accounts in Germany.[8]

## 2.2. Irregularities or suspected fraud

### *2.2.1 TUNA FROM COSTA RICA (AM FORM 17/95)*

**Background**

A Commission analysis of tuna industry operations in Central America revealed a glaring discrepancy between the limited fishing capacity of local fleets and the volume of canned tuna imported into the European Union from Costa Rica. In March 1996 an administrative cooperation mission consisting of representatives from the Commission and the Member States concemed visited Costa Rica to check the origin of these products. The investigation covered more than 10 000 tonnes of tuna. The main suspicion centred on the nationality of the fishing vessels which supplied the tuna canneries.

The investigations confirmed that Costa Rica did not have an adequate commercial fishing capacity and that most of the tuna unloaded there had in fact been caught by boats of other nationalities. The fish caught was used in the cans in question, which were therefore not eligible for preferential treatment. Several hundred form A certificates issued by the Costa Rican authorities had been presented in the European Union so that these products could be imported without import duty. Costa Rica agreed that the mission's findings were correct.

The own resources at stake as a result of these wrongly issued certificates have been estimated at around ECU 6 million.

**Recovery situation**

– ***Overall recovery figures (amounts are shown in Table 6):***

| | |
|---|---|
| B account | 32% |
| Time-barred | 68% |

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7 Council Regulation No 2513/92 of 12 October 1992 (OJ L 302, 19.10.1992) and Commission Regulation No 2454/93 of 2 July 1993, in particular Article 907 (OJ L 253, 11.10.1993).

8 The Commission asked Germany for further information in January 1999.

*Figures by Member State (recovery) :*

| | | | | |
|---|---|---|---|---|
| E | B account | 100% | | |
| F | B account | 100% | | |
| I | B account | 47% | Time-barred | 53% |
| P | B account | 12% | Time-barred | 88% |
| UK | B account | 100% | | |

As regards the amounts entered in the B account, it should first be noted that appeals have been lodged in Italy, the Member State most involved, and in France. This may explain why no amounts have been recovered in this case.

Germany is now dealing with the negligible amounts in which it is involved. Spain has not provided any information on the action is has taken. As regards the two Member States mostly concerned by these imports, Italy and Portugal, attention should also be drawn to the importance of time limits. Many of the imports were already time-barred when the findings of the Community mission in March 1996 became available. Post-clearance establishment was thus no longer possible by that stage. This is the case with Italy.

Portugal began its investigations in April 1996 and ended them in December 1997. All imports up to December 1994 were considered time-barred (ESC 81 313 422 in 1993 and ESC 232 913 771 in 1994). However, the Commission had sent a list of invalid certificates in AM form 17/95 SI (96) of 25 June 1996 and a Portuguese representative took part in the mission to Costa Rica from 18 to 29 March 1996 and was aware of the findings.

**Measures taken or to be taken**

In view of the time needed to distribute the relevant instructions to national departments and the three-year time-limit, the Portuguese authorities should have taken every possible measure by 31 October 1996 to protect the Community's financial interests in connection with imports arriving after 1 November 1993.[9]

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9 In February 1999 the Commission asked the Portuguese authorities to make available the own resources which had become time-barred as a result of the customs authorities' failure to carry out their statutory obligations. It is too early to pass judgment on the failure by the other Member States to recover any amounts as the mission took place only recently and appeals have been lodged.

### 2.2.2 *CLOTHING FROM LAOS* *(AM FORM 58/92)*

**Background**

A mission to Laos in November 1995 by a Community delegation consisting of representatives from the Commission and five Member States (France, Germany, Denmark, the Netherlands and the United Kingdom) revealed that 300 certificates of origin for some 4 million items of clothing imported into the European Union had been forged and had not in fact been issued by the Laotian authorities. At the same time 2 700 other preferential certificates (covering 22 million items) had been wrongly issued by these authorities between 1991 and 1995 for products which did not meet the criteria demanded by the GSP.

The Laotian authorities accepted the delegation's findings from the mission of inquiry and confirmed that none of the products inspected were eligible for preferential treatment when they were imported into the Community. The certificates of origin were either forged or should not have been issued.

Since 1 August 1997 Laos, as a least developed country, has been granted a derogation from Community GSP rules of origin, at its request, so that it can use fabric from other Asian countries in its products. This derogation, which was accepted by the Community, covered only subsequent imports. It does not therefore have any impact on the irregular status of imports already carried out under the GSP as preferential treatment was granted on the basis of false declarations concerning the conformity of the products with GSP rules (in the case of the products covered by the 2 700 irregular certificates).

The Member States concerned have provided the necessary information for conducting investigations into the Community importers and recovering the duties.

At the time of the inquiry the own resources involved were estimated at almost ECU 7 million.

**Recovery situation**

Half the ECU 6.3 million reported by the Member States has been recovered, but this is not spread evenly between them: some have recovered virtually all the entitlements while others have entered most of the amount in the B account.

*Overall recovery figures (amounts are shown in Table 7)*

| MEMBER STATE | A ACCOUNT | B ACCOUNT | NO ENTRY IN THE ACCOUNTS | TIME-BARRED |
|---|---|---|---|---|
| Belgium | 58% | 34% | | 8% |
| Denmark | 100% | | | |
| Germany | 73% | 11% | 9% | 7% |
| France | 33% | 67% | | |
| Italy | 15% | 80% | | 5% |
| Netherlands | 36% | 64% | | |
| Austria | 59% | 41% | | |
| Finland | 2% | 98% | | |
| United Kingdom | 100% | | | |
| **TOTAL** | **55%** | **39%** | **3%** | **3%** |

**Measures taken or to be taken**

While 55% of entitlements have been recovered, recovery of the 39% entered in the B account is unlikely in the short term as virtually all this amount is the subject of appeals.

According to information at the Commission's disposal, ECU 187 250 was not entered in the accounts in Germany.[10]

The Commission is also examining whether the failure to recover amounts that have now become time-barred in three Member States is due to the negligence of the administrations concerned. It found that time limits had already expired in Germany and Italy before or at the time it published the mission findings. The Commission is still awaiting further details from Belgium.

### *2.2.3 TEXTILES FROM CAMBODIA (AM FORM 82/94)*

**Background**

Investigations into the regularity of certain textile products imported into the Community in a number of Member States revealed evidence of abuses concerning GSP Form A certificates of origin issued for these consignments in Cambodia.

In agreement with that country's authorities, an administrative cooperation mission consisting of representatives of the Commission and the Member States concerned visited Cambodia from 11 to 21 March 1996 to check the validity of the certificates.

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[10] The Commission asked Germany for further information in January 1999.

The investigations, which were always conducted in the presence of representatives of the Cambodian Trade Ministry, revealed 1 463 forged certificates of preferential origin (form A). These certificates related to more than 23 million items of clothing imported into the Community free of customs duty between 1992 and 1996. In fact, the goods covered by these certificates had been loaded at ports in China or Vietnam.

In addition to these cases, it was found that another 1 716 Form A certificates of origin (representing 16 510 317 items of clothing) had been wrongly issued for Cambodian products which failed to comply with the Community GSP rules of origin since the yarn and fabric used in their manufacture did not originate in that country. The derogation from Community GSP rules of origin granted to Cambodia as a least developed country since 1 August 1997 does not apply to these imports.

The Cambodian authorities responsible have confirmed in writing that all the products covered by Form A certificates of origin which they had checked were not eligible for preferential treatment when imported into the Community as the Form A certificates had either been forged or wrongly issued.

The own resources involved are estimated at ECU 10 million.

**Recovery situation**

The evaded entitlements reported by the Member States when they monitored recovery are lower than estimated. The Cambodian authorities have sent the Commission a list of the certificates which were wrongly issued for products that were not eligible.

***Overall recovery figures (amounts are shown in Table 8)***

| Member State | A account | B account | Not entered in B account | Time-barred |
|---|---|---|---|---|
| Belgium | 36% | 64% | | |
| Denmark | 99% | | | 1% |
| Germany | 75% | 25% | | |
| Greece | 50% | 50% | | |
| Spain | | 100% | | |
| France | 39% | 61% | | |
| Italy | 30% | 70% | | |
| Netherlands | 52% | 48% | | |
| Austria | 71% | 29% | | |
| Portugal | 100% | | | |
| Finland | 100% | | | |
| United Kingdom | 55% | 45% | | |
| **TOTAL 15** | **59,94%** | **40%** | | **0,06%** |

**Measures taken or to be taken**

In all the Member States apart from Denmark, the full amount has been established and more than half the entitlements evaded have been recovered. This relatively favourable situation will have to be confirmed in the Member States through faster recovery of the amounts entered in the B account although recovery operations are still being delayed by the large number of appeals.

The amount which Denmark has failed to recover relates to imports which were already time-barred when the findings of the Community mission in March 1996 became available.

### *2.2.4 CAR RADIOS FROM INDONESIA (AM FORM 16/92)*

**Background**

From November 1991 onwards a number of Member States asked the Indonesian authorities for a post-clearance check of Form A certificates of origin issued for car radios imported from Indonesia after they discovered from random samples that some of the radios did not originate there. The Indonesian authorities failed to reply to these requests, though it subsequently turned out that they had contacted the two companies concerned to decide what action to take.

In May 1992 the Commission (DG XXI) drew the Indonesian authorities' attention to the general problem of the origin of the car radios so that their status could be cleared up as soon as possible.

The results of the preliminary inquiries carried out by the Indonesian authorities confirmed that, according to documents supplied by the companies and declarations of a general nature by the main exporter, the products had originated there.

A Community mission visited Indonesia from 15 March to 2 April 1993 to establish, in cooperation with the local authorities, where the car radios exported from that country actually originated. The inspection covered deliveries from each of the seven Indonesian firms identified as suppliers to the Community market.

It was found that none of the car radios exported by these firms since operations began in 1991 under cover of Form A certificates of origin issued by the Indonesian authorities (513) were eligible for the preferential treatment granted by the Community under the GSP. Because of the origin and value of the majority of components used, some of these products should even be considered as originating in South Korea for the purposes of Regulation (EEC) No 2632/70 and antidumping duties should have been collected.

Although they recognised the accuracy of the mission's findings on the non-preferential origin of the products, the Indonesian authorities decided to ask the exporters to confirm, by any means they saw fit, that the products they had exported since May 1992 were actually eligible for preferential treatment.

DG XXI conducted a detailed examination of the supporting documents relating to origin and found that they did not contain any evidence that the products originated in Indonesia. Finally, the Indonesian authorities confirmed in a *note verbale* on 11 March 1994 that the certificates were invalid.

As regards the anti-dumping duties in particular, it should be added that car radios produced by some Indonesian manufacturers were obviously and clearly recognisable as being of South Korean origin and thus subject to anti-dumping duty while those produced by other manufacturers could be accepted as being of Indonesian origin and thus exempt from anti-dumping duties.

The own resources involved were estimated in the AM form at ECU 7.9 million as regards customs duties and at ECU 11 million as regards anti-dumping duties. However, the information supplied by the Member States suggest that the amounts are far lower.

**Recovery situation**

The totals which the Member States reported to DG XIX when they monitored recovery come to around ECU 6.4 million as regards customs duties and ECU 8 million as regards anti-dumping duties, far lower than the amount estimated, especially for anti-dumping duties.

The main reason for this discrepancy is that neither Germany nor the United Kingdom established anti-dumping duties. Germany did not consider that the conditions laid down by Regulation (EEC) No 2632/70 had been met while the United Kingdom feels that the Community mission had been unable to determine with certainty that some of the radios originated in South Korea.

***Overall recovery figures (amounts are shown in Table 9)*** *

| Member State | A account | B account | Not entered in B account | Time-barred | Amounts cancelled |
|---|---|---|---|---|---|
| Belgium | 2% | 92% | | 6 % | |
| Denmark | 100% | | | | |
| Germany | 32% | 66% | | 2% | |
| Spain | | | | 100% | |
| France | | 100% | | | |
| Italy | 10% | 90% | | | |
| Netherlands | 79% | 21% | | | |
| United Kingdom | 34% | 1.5% | | | 64.5% |
| **TOTAL** | **17%** | **67.8%** | **0%** | **3.7%** | **11.5%** |

– ***Compliance with the rules:***

The amounts which are time-barred account for a low percentage of established entitlements. In Germany and Belgium the time limit expired before or at the time the Commission published its mission findings. However, the Commission notes that the Spanish authorities had not taken any steps before March 1996 to ensure that the resources due were recovered and that the time limit for all the Spanish imports had expired by that date.

**Measures taken or to be taken**

When allowance is made for the fact that Germany and the United Kingdom did not establish anti-dumping duties, some 18% and 75% of the amounts entered in the B account were recovered. Several cases are subject to appeals.

As regards the DEM 5 million in anti-dumping duties which the Court of Auditors considers payable but which has not been established, the German authorities have informed the Commission that the importers were unaware of the proportions of supplies and processing which would enable them to determine the origin of the radios in accordance with Regulation No 2632/70 of 23 December 1970.[11]

As this information was not available, the German authorities directly applied Article 5 of Regulation No 802/68 under which the assembly of the goods in Indonesia must be considered as the last substantial process, giving them Indonesian origin. The German authorities also referred this problem to the Committee on Origin and received no reply.

In the case of the United Kingdom, the Commission checked the justification for the cancellation of £ 1 102 500 in anti-dumping duty on the grounds that it was not possible to determine the South Korean origin of the goods in question (letter XIX/D/24527 of 5 October 1998).

In the case of Spain, the Commission asked the Spanish authorities to make available the ESP 23 663 453 which had become time-barred in respect of imports which had taken place in 1992 (letter XIX/D/24524 of 1 October 1998).

### *2.2.5 BICYCLES FROM VIETNAM (AM FORM 78/94)*

**Background**

In April 1995 a Community delegation consisting of representatives from the Commission and France (the Member State mainly involved) went on an administrative cooperation mission to check the origin of 523 241 bicycles exported from that country since April 1992 under cover of certificates of preferential origin.

The bicycles were assembled there from components which had all been imported and supplied by a Hong Kong company which also exported Chinese bicycles to the Community.

Although the importer in Vietnam placed a number of difficulties in their way, the Community inspectors were able to prove that all the components had been imported from China and Hongkong and that the certificates of preferential origin issued since 1992 for the finished products had been issued improperly.

By the end of the mission, the Vietnamese authorities, after providing the Community mission with the assistance it required, agreed that the certificates of preferential origin had been wrongly issued. They were able to put an end to this practice from May 1995.

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[11] At least 45% of the ex works price relating to the value of the assembly and the use of parts from the country of origin or 35% of this price relating to parts from a country or the highest percentage of parts.

At the time of the inquiry, the customs duties evaded were estimated at around ECU 6.8 million. In view of the conditions of final assembly, anti-dumping duties of ECU 9.7 million may be payable.

**Recovery situation**

The Member States were informed of the findings of the inquiry and established the amounts due. Virtually all the customs duties and anti-dumping duties (two thirds in France's case) were entered in the B account in view of the appeals lodged. Only negligible amounts were recovered in respect of small-scale imports (B, D, IRL).

The time bars noted in Ireland concerned small-scale imports in October and November 1992, while the final report on the mission was sent by the Commission in November 1995.

– ***Overall recovery figures (amounts are shown in Table 10)***

| Member State | A account | B account | Not entered in B account | Time-barred |
|---|---|---|---|---|
| Belgium | 100% | | | |
| Germany | 0.1% | 99.9% | | |
| France | 0.4% | 99.6% | | |
| Ireland | 54% | | | 46 % |
| United Kingdom | | 100% | | |
| **TOTAL** | 0.6% | 99.3% | | 0.1% |

**Measures taken or to be taken**

As France was the main country importing bicycles from Vietnam, recovery of virtually all the amounts involved depends on the decision to be taken on the appeals against the recovery notices which the French authorities sent to their taxpayers. These appeals have been made to the *Commission de conciliation et d'expertise douanière* (Committee for Conciliation and Customs Expertise - CED), which takes a relatively long time to examine cases.

### 2.3 Initial conclusions on the B98 sample

The Commission notes that substantial progress has been made in the cases included in the current sample, mainly because of the considerable involvement of the Member States. The Commission also confirms that there has been a distinct improvement in the quality of information supplied. Constant contact with national investigation and recovery departments to compile and update the latest information available is essential for taking stock of the recovery situation for this type of traditional own resources.

This progress is also reflected in a healthy rate of recovery which is appreciably higher than in the previous report (rising from 2% to 12%). The volume of traditional own resources which have not been entered in the accounts has also fallen considerably (from 25% to 0.1%). At the same time, this has led to a sharp increase in disputes and 45% of all entitlements at stake are the subject of appeals to the courts. Finally, the volume of amounts which are time-barred is declining substantially and now comes to 4%. A detailed account of the facts noted is set out later in the report.

## 3. UPDATE ON SAMPLE B94

The cases examined in sample B94 did not end with the report in question. As part of its monitoring of recovery, the Commission has investigated the progress made in recovering the traditional own resources at risk in these cases.

Sample B94 was complicated as regards both the nature of the cases and the extent of disputes. Since the B94 report was published, there have been a number of developments over a relatively short period to resolve this type of issue. In particular, two cases involving unwarranted claims for preferential treatment (Seychelles tuna and Faroese shrimps) have led to recovery and may be considered closed.

The cases referred to the courts are still progressing (butter, Turkish televisions). In other cases of proven fraud, developments have been relatively slow, without being totally negative. The cases involving cattle from eastern Europe are still before the courts. The current situation regarding milk powder, a particularly complicated case, is described below.

### 3.1 Proven fraud

#### *3.1.1 CARRLE, SHEEP AND MEAT FROM EASTERN EUROPE*

Together with the main Member States concerned, mainly Germany, the Commission is continuing to track down the persons liable for paying the amounts evaded as a result of various fraudulent acts. The rules on transit were being changed when the fraud occurred and have been amended three times over this period, which does not make it any easier to determine responsibilities.

However, the Commission will ask the Member States concerned why they failed to comply with the transit rules relating to recovery in the event of an irregular discharge or in the absence of discharge, in particular the notification of the guarantors.

### *3.1.2 MILK POWDER*

The criminal proceedings involving this case and developments since it was presented in report B94 illustrate the sometimes insurmountable difficulties encountered by the national administrations in recovering resources evaded as a result of proven fraud. The main question was which of the three Member States involved in this fraud - Belgium, France and Spain - was responsible for recovery, bearing in mind that the brain behind the operation was in Switzerland.

Belgium

The Belgian authorities relieved their principals (three customs agents) of liability by stating that the Belgian customs authorities were satisfied by the evidence of where the offence had been committed, i.e. Spain, which they had received within three months of the fraudulent discharge being discovered.

The Belgian authorities therefore declined responsibility for recovery, although they recognised that the Belgian declarants, as the principals, and their guarantors were still liable to the Member State effecting recovery for the customs debt up to the amount to which they had committed themselves.

France

Investigations in France confirmed that a French haulage company had been involved in the smuggling of milk powder on behalf of the real offenders in Spain.

At the Commission's request, the case was brought before the courts in July 1996 so that letters rogatory could be sent to the Swiss and Spanish authorities as the French company was considered to be an accomplice of the Spanish firm.

Meanwhile, as the manager of the French company died, the indictment against him and his firm (a one-man company with limited liability) lapsed and the French investigating magistrate issued a writ of *nolle prosequi* in September 1997.

This decision marked the end of proceedings in France, even though the mutual assistance procedure can still operate between France and Spain in respect of the information held by France.

Spain

At the Commission's insistence, legal proceedings started in Spain on the initiative of the Guardia Civil and the case was referred to a judge in Irun in the first half of 1997. The case is now being handled by the examining magistrate in Pamplona.

The Commission has asked Spain for official notification of the progress of proceedings in order to determine once and for all whether it is indeed the Spanish authorities which are responsible for recovery in respect of all the consignments of milk powder.

If this is the case, the Spanish authorities, with the support of the Belgian authorities under the mutual assistance procedure, should recover what they still can from the Spanish firms charged and the Belgian principals. If this is not the case, the Belgian authorities should get in touch with the principals in view of their financial liability.

### *3.1.3 GERMAN-DUTCH BUTTER*

In this case of proven fraud, the Commission considered that the German authorities had been negligent in allowing the German importer of Dutch butter to re-import it into the Community without a levy after it had been exported from the Netherlands to the GDR with a refund.

The Commission therefore held the German authorities financially liable and considered that they should make available to the Community the DEM 12 684 800 in own resources evaded. A letter of formal notice was sent to them on 13 September 1995 demanding that this amount be made available.

The German authorities repeatedly refused this request and the Commission referred the matter to the Court of Justice on 6 December 1997 (case C-348/97). A judgment should be reached in late 1999.

As regards the possible recovery of the wrongly granted refunds, it appears that some progress has been made in the legal proceedings in progress in the Netherlands and that some of the wrongly granted refunds have been recovered.

## 3.2 Irregularities or suspected fraud

### *3.2.1 SEYCHELLESS TUNA*

Of the established entitlements to be recovered - **ECU 1.9 million** in October 1996 - 23.81% had already been collected by that date in Ireland, the Netherlands and the United Kingdom.

Since then, 61% of total entitlements have been recovered in France and the United Kingdom, bringing total recovery to date to 84.8% of the duties evaded ECU 1.6 million.
Of the 15.2% still to be recovered, 15.1% are entered in the B account - ECU 0.26 million referred to the courts by the French and Belgian authorities and ECU 0.03 million still to be collected by the UK authorities.

Only a negligible percentage of amounts are time-barred (0.1% - i.e. ECU 0.004 million).

Subject to the routine controls, the Commission considers that this case is closed.

### *3.2.2 FAROESE SHRIMPS*

As stated in the conclusion which the Commission reached on this case in report B94, a preliminary ruling made by the Court of Justice on 14 May 1996 at the request of the UK High Court of Justice imposed interpretation criteria on national courts, with repercussions for the recovery of traditional own resources [12]

The United Kingdom is the Member State where most of the amounts still have to be recovered.

In its judgment of 14 May 1996 the Court of Justice left it to the UK authorities to establish whether the Faroese authorities had made a mistake in issuing the EUR 1 certificates in question. However, it did rule that, if a mistake had been made, it was not reasonable to assume that it could be detected by the firms in the UK.

The UK High Court based its judgment of 1 May 1998 on this reasoning. According to the evidence at its disposal, the Faroese authorities had applied the wrong rules and the taxable persons could not detect these errors.

The UK High Court therefore cancelled the post-clearance recovery notices sent to the two firms.

According to the UK authorities, the same mistake had been made with all the preferential certificates relating to the customs debts notified to the taxable persons. All the C 18 documents for shrimps imported from the Faroes between 1988 and 1991 were therefore withdrawn. The corresponding amounts were removed from the B account in the first half of 1998.

Denmark, which did not have a B account at the time, made available a substantial sum of established amounts which were not time-barred, but might deduct them from the own resources depending on how the national courts interpret the Seafood ruling.

The Commission is still waiting for a reply from the Danish authorities.

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[12] Cases C-153/94 and C-204/94.

Given all these factors, the Commission considers that, since the Court of Justice and the national courts have ruled on the substance of the case, any recovery still to be carried out by the national administrations on the basis of court decisions come under the routine controls of implementation by the Commission and the Member States.

The Commission therefore considers that this case is closed.

### *3.2.3 COLOUR TELEVISION SETS FROM TURKEY*

- **The figures** were again checked and updated. Only a negligible amount (around ECU 75 000) had been recovered in the meantime.

  The proportion of amounts entered in the B account previously attributed to Germany was reduced as a result of the checks on the basis of the exhaustive figures produced by that Member State.

  Of the ECU 23.7 million now entered in the B account, ECU 13 million was subject to requests for remission or recovery.

  On the other hand, the amounts which are time-barred have increased considerably.

- Appeals have been made to the Court of First Instance against **most of the Commission's decisions to reject** requests for remission or recovery.

  The eventual outcome of the ECU 23.7 million established but not yet recovered thus depends on the decision of the Court of Justice.

- **Time bars**

  The Commission considered that the national administrations should take account of DG XIX's letters of 2 March and 21 April 1994 and 25 November 1994 and DG XXI's letter of 6 October 1994 which set out the situation from the point of view of the financial regulations and the Customs Code.

  The national authorities have thus had a full interpretation of Community law applicable since 25 November 1994. Allowing for the time needed to pass on the instructions to their departments, the Member States should have taken action since 1 January 1995 on all imports from 1 January 1992.

  In the case of one Member State (Greece) which failed to establish any entitlements and allowed time limits to expire without taking any action and other Member States which did not act early enough (Spain, Italy, Portugal and the Netherlands), the Commission considered that their failure to fulfil their statutory obligations renders them financially liable and demands were sent to them in February and November 1998 for the amounts which have become time-barred since 1 January 1992.

# 4. SUMMARY OF THE RECOVERY SITUATION IN THE MEMBER STATES

## 4.1 General picture

### *4.1.1 FOLLOW-UP ACTION*

The information needed is compiled and updated by contacting the Member States by letter or during the inspections of traditional own resources. The Commission has received full cooperation from the national administrations. Questions have to be asked about the follow-up of cases from the administrative and accounting angle as the fraud forms are only for cases involving more than ECU 10 000. An exchange of information is then necessary to obtain a full picture of the situation.

### *4.1.2 OVERALL RECOVERY SITUATION FOR SAMPLE B98 (TABLE 11)*

**Table 11** shows the recovery situation for each Member State and case in the sample, broken down in line with the positions at 1 December 1998.

The sample, amounting to ECU 136 million, accounts for 9% of the balance to be recovered at 31 December 1997 (ECU 1 513.336 million entered in the B account) and differs from the sample in the previous report.

The main problems with recovery are the same - misuse of transit procedures and abuse of preferential arrangements.

However, there has been a considerable increase in the amounts recovered, more than half the amounts entered in the B account are waiting for a court decision and there has been a sharp reduction in the amounts which are time-barred. This distinct improvement in the way that national administrations treat recovery prompts the following comments.

### *4.1.3 COMMENTS*

The two samples B94 and B98 are similar in volume (ECU 124 and 136 million) and composition.

Not too much significance should be attached to any comparison of successive samples when the composition depends on the situation at the time.

However, comparison of the two samples B94 and B98 produces a number of interesting conclusions, even though it should be borne in mind that the data are affected by the situation at the time.

a) Overall, **actual recovery** (column 3) has risen from 2% to 12%. However, in some cases, it can amount to half the entitlements involved. This substantial increase in the rate of recovery must be correctly interpreted. One major factor mitigates the satisfaction which may result from this outturn.

While almost half the entitlements involved are recovered quickly, the remainder remains entered in the accounts for many years, even though this is not always justified by appeals or court proceedings.

b) **Recovery pending** (columns 4a and 4b) rises from 56.5% to 83%. This increase in the rate of entry in the B account and the sharp drop in the percentage of amounts not entered (column 6a) from 25% to 0.1% reflect a praiseworthy effort by the national administrations to take account of the comments made by the Court of Auditors and the Commission in connection with the B account.

However, the 0.1% of amounts not entered in the present sample shows that Member States still have some way to go, especially those which fail to treat a case uniformly throughout their territory.

c) The **amounts time-barred** are another source of satisfaction since they have fallen from 12% to 4%, again reflecting the greater attention which national administrations are paying to recovery.

d) As regards **cases referred to the courts**, the amounts involved have increased substantially (from 3.4% to 45%).

Although most of this increase is accounted for by Italy, the Commission is still of the opinion that follow-up action ends when the matter is referred to the legal authorities. Indeed, once a court decision is reached, the national administrations merely have to apply it and inform the Commission.

### 4.2 List of measures taken or to be taken

Although analysis of the recovery information supplied by the Member States in connection with sample B98 shows that they have been paying more attention to financial interests with reference to own resources (with a substantial increase in the rate of recovery and a sharp drop in amounts time-barred), the action taken by national administrations must still be improved on at least two levels:

- application of Community law,

- treatment of national taxable persons.

The major initiatives taken by the Commission in two sectors should also be pointed out:

- as regards transit procedure, a favourite target of fraud, the Commission, in agreement with the Member States, has made a number of proposals to remedy the malfunctioning noted;

- as regards preferential import schemes, the Council and Parliament have reached a political agreement on the basic proposals made by the Commission, which is now drawing up the measures needed to put a stop to the current abuse of preferential certificates.

### *4.2.1 APPLICATION OF COMMUNITY LAW*

The excessive slowness of prosecution procedures and the differing interpretations of Community law by national administrations can be witnessed at every stage of the treatment of own resources, obstructing uniform recovery of these resources and sometimes resulting in Member States being held financially liable.

- *As regards the fraudulent behaviour* observed in two cases of proven fraud, one of which was already dealt with in report B94, Spain did not give Belgium the administrative assistance it required and was late in conducting the investigations needed to protect the Community's financial interests.

- *As regards presentation of invalid preferential certificates*, some Member States still fail to attach due importance to the inspection reports drawn up by UCLAF officials on their return from a mission and do not take the necessary measures in time, leading to the expiry of time limits.

  For example, this was the case with Portugal which delegated an official to accompany the Community mission. After learning that the certificates were invalid, the Portuguese authorities conducted an inquiry for two years - without establishing the entitlements due. When they completed their investigations after two years, most of the entitlements in question were time-barred.

- *As regards the treatment of entitlements in the accounts*, practices even differ within the same Member State.

  In Germany, for example, fraud forms are drawn up in some "Oberfinanzdirektionen" and not in others for cases covered by the same mutual assistance form (AM form).

  Sometimes, cases covered by the same AM form are treated differently in different Member States and even within the same Member State when entitlements are being established and entered in the B account.

  Finally, in some cases where an entitlement is time-barred or cancelled, Member States do not apply the procedure provided for in Article 17(2) of Regulation No 1552/89 as last amended (amounts written off).

### *4.2.2 TREATMENT OF NATIONAL DEBTORS*

The slowness of procedures favour taxable persons to the detriment of the Community's financial interests. Moreover, the corrective effect of any recovery, fines or penalties four of five years after the facts does not completely repair the harm done to the protection of the European Union's single market.

Similarly, varying implementation of the machinery for applying Community law in the different Member States discriminates in favour of certain national taxpayers.

- Some Member States which fail to display sufficient diligence in recovering entitlements, keeping them in the B account without further action, unduly favour their taxable persons as opposed to those in other Member States where recovery is more efficient. This failure to act is even more open to criticism when a recovery notice is issued to a bankrupt company or one on the verge of bankruptcy.

  Some cases in the sample show that, even when more than half the amounts involved are recovered, the recovery measures employed by the various national administrations are not uniformly strict.

- The interpretation of Community rules by national agencies may also be discriminatory if national administrations are not prepared to agree on a uniform interpretation when international traders are able to modify their strategy for penetrating the Community market to benefit from the most favourable conditions.

  For the purposes of the current sample, this comment applies to rules of origin and to certain cases (such as car radios from Indonesia) where it was found that the same products could enter the European Union by different channels and under different conditions of taxation.

In view of this situation, the Commission organised seminars in 1996 and 1997 to draw up a list of measures, in particular enforced recovery, which led to Community rules on time-barring.

One of the more tangible results of this operation was the proposal to amend the Customs Code[13] which, by simplifying the procedure for entering customs duties in the accounts, prevents amounts from being time-barred if investigations prove particularly long or complicated and, at the same time, allows parallel recovery procedures to be initiated when debtors are jointly liable.

However, the Commission's powers in this field are extremely limited as it comes under the "third pillar".

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[13] Proposal for a European Parliament and Council Regulation (EC) amending Regulation (EEC) No 2913/92 establishing the Community Customs Code (COM(98) 226 final, 8.6.1998)

### *4.2.3 HOW TO STOP ABUSE OF HIGH-RISK PROCEDURES*

a) Transit

In the case of transit, past experience has demonstrated the difficulties of effecting recovery when operations have not been discharged, especially in determining the customs authority responsible when the taxable persons produces evidence of where the infringement or irregularity was perpetrated (see the milk powder and Spanish sugar cases).

The Commission has proposed two amendments to the Customs Code which will provide better protection for the Community's financial interests. A new procedure for Community and common transit is intended to clarify the conditions generating the debt and the identification of debtors,[14] by linking the place where the debt is incurred and the authority responsible for recovery. Determination of the authority responsible for recovery is thus far simpler when there is evidence of where the goods have been diverted.

The second proposal clarifies the conditions for the entry of entitlements in the accounts in order to prevent time limits from expiring when investigations are particularly long or complicated, while still allowing parallel recovery procedures to be initiated when debtors are jointly liable.

b) Preferential tariff arrangements

Preferential tariff arrangements are subject to a number of malfunctionings, the most common being fraud in connection with origin.

The Commission has combined various contributions (in particular the conclusions presented by the Council (Internal market) and the Nordmann report adopted by Parliament) in its proposal for a programme of renewal which should allow this problem to be addressed in its entirety.

## CONCLUSIONS

For a sample of the size and nature as sample B94, it should first be noted that there has been a distinct improvement in the recovery of doubtful debts, at least in the case of some preferential imports. This improvement is due to the increased attention which national administrations pay to the problems which have recently arisen in this sector and their capacity to react to irregularities and cases of suspected fraud.

The situation as regards entitlements resulting from proven fraud remains worrying. This is more a problem of bringing cases to court. The difficulties in recovery in these cases are inherent to the transit procedure and preferential arrangements.

However, some difficulties are constant and appropriate remedies must be sought.

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[14] Proposal for a European Parliament and Council Regulation (EC) amending Regulation (EEC) No 2913/92 establishing the Community Customs Code (COM(97) 472 final, 26.09.1997).

The Commission feels that progress must be made on four specific aspects and it will endeavour to achieve this with the assistance of the Member States

## 1. IMPORTANCE OF PREVENTIVE MEASURES

As customs duties are indirect duties collected at the time of the operation, post-clearance recovery always proves to be difficult for various reasons examined throughout the report.

Preventive measures are therefore vital to protect the financial interests of the Community budget. In order to detect situations which could lead to doubtful debts as early as possible, and to reduce as far as possible the financial loss resulting from infringements, national administrations must be stricter in applying Community rules, especially those relating to the control of certificates giving entitlement to preferential treatment.

Monitoring major new import flows on the basis of risk analysis should allow national administrations to act quickly. As soon as any irregularities in these import flows are reported, the seizure of guarantees should make it easier to recover the amounts to be recovered *ex post* once investigations have established the situation to be adopted as regards preference.

## 2. MINIMUM LEVEL OF RELIABILITY FOR THE B ACCOUNT

As the B account can be used to gauge the extent of recoveries which prove difficult, the national administrations must ensure that their departments manage this account strictly and incorporate it as effectively as possible in their accounting system so that it proves to be a reliable instrument that can be used to monitor the cases for which it is intended.

Similarly, the fraud forms providing information on recovery in respect of some of the cases entered in the B account should be drawn up uniformly by all the Member States concerned so that the Commission can take general action. In particular, any case referred to in an AM form should also be covered by a fraud form.

Given the shortcomings in keeping the B account, the Commission will continue to monitor recovery procedures through inspections under Article 18 of Regulation No 1552/89.

## 3. SPEEDING UP ENFORCED RECOVERY PROCEDURES

In many cases where entitlements were collected at the start of the post-clearance recovery operation without any appeal being lodged, there is no further recovery in subsequent years in respect of the amount outstanding in the B account. However, when assessing the diligence shown by Member States in post-clearance recovery, the Commission takes account of the speed displayed by national departments and the correct application of enforced recovery measures.

These cases of dormant recovery should be given appropriate administrative treatment, especially when there has been no referral to a court or an appeal, so that companies already warned of problems arising in connection with certain imports do not prove to be bankrupt by the time the recovery notices arrive.

## 4. NEED FOR UNIFORM TREATMENT OF TAXABLE PERSONS

As the rules governing post-clearance recovery are essentially national, i.e. they come under the third pillar, treatment of the recovery of doubtful debts varies as regards the strictness of the procedures applied by the different national administrations.
The Member States and the Commission must adopt measures to reduce the differences in treatment of Community taxable persons to a minimum in order to recover own resources as effectively as possible and prevent diversion of traffic.

To sum up, the Commission, while noting several approaches to reform certain practices by the national administrations, is focusing on certain inherent shortcomings, in particular in the management of preferential arrangements. Given examples such as the Cambodian textiles or Costa Rican tuna cases, there are grounds for reviewing the application of economic conditions and the impact of a proliferation of complicated rules on the effectiveness of controls and recovery. This was the purpose of the Commission communication of 23 July 1997.[15]

* *
*

15 COM(97) 402 final.

# ANNEXES
# TO REPORT B/98

# SELECTION OF CASES

*Table 1*

| | Products | AM forms | Customs procedure in question | Number of Member States concerned* | B | DK | D | EL | E | F | I | IRL | NL | A | P | FIN | UK |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Sugar 2.1.1 | AM 53/93 | TRANSIT | 1 | | | | | X | | | | | | | | |
| 2 | Swiss cheese 2.1.2 | AM 3/95 | PREFERENCE | 3 | | | X | | | X | X | | | | | | |
| 3 | Bananas 2.1.3 | AM 72/94 | TRANSIT | 1 | | | | | | | X | | | | | | |
| 4 | Hilton beef 2.1.4 | AM 52/93 | PREFERENCE | 6 | | | X | | X | X | X | | X | | | | X |
| 5 | Tuna from Costa Rica 2.2.1 | AM 17/95 | PREFERENCE | 7 | X | | X | | X | X | X | | | | X | | X |
| 6 | Clothing from Laos 2.2.2 | AM 58/92 | PREFERENCE | 9 | X | X | X | | | X | X | | X | X | | X | X |
| 7 | Textiles from Cambodia 2.2.3 | AM 82/94 | PREFERENCE | 10 | X | X | X | X | X | X | X | | X | X | X | X | X |
| 8 | Car radios from Indonesia 2.2.4 | AM 16/92 | PREFERENCE | 8 | X | X | X | | X | X | X | | X | | | | X |
| 9 | Bicycles from Vietnam 2.2.5 | AM 78/94 | PREFERENCE | 5 | X | | X | | | X | | X | | | | | X |
| | | | | **Number of cases by Member State** | **5** | **3** | **7** | **1** | **5** | **7** | **7** | **1** | **4** | **2** | **2** | **2** | **6** |

* Two Member States, Luxembourg and Sweden, were not involved in any of the cases in the sample

# SUGAR

## AM form 53/93

*Table 2*

| Country | Fraud forms | Amount in A account | | Amount in B account | | Notes | Total (ECU) |
|---|---|---|---|---|---|---|---|
| | | National currency | ECU | National currency | ECU | | |
| Spain | 1 | | | 65,790,000 | 393,874 | (1) | |
| | 1 | 869,327 | 5,205 | 489,865,603 | 2,932,747 | (2) | |
| | 1 | | | 237,397,128 | 1,421,259 | (1) | |
| **Total (national currency and ECU)** | | | **5,205** | **793,052,731** | **4, 747,880** | | **4,753,085** |

Notes:

(1) The Commission refused a request for two amounts - PTA 237 397 128 and PTA 65 790 000 - to be written off under Article 17(2) of Regulation No 1552/89.

(2) The Commission refused another request for PTA 148 000 000 to be written off under Article 17(2) of Regulation No 1552/89.

# SWISS CHEESE

## AM form 3/95

*Table 3*

| Country | Fraud forms | Amount in A account | | Amount in B account | | Notes | Total (ECU) |
|---|---|---|---|---|---|---|---|
| | | National currency | ECU | National currency | ECU | | |
| Germany | 2 fraud forms, no form in two cases | DM 2,326,315 | 1,177,040 | | | | 1,177,040 |
| France | 4 fraud forms | FF 25,800,231 | 3,900,262 | | | | |
| Italy | 20 fraud forms | | | LIT 91,425,674,625 | 47,204,987 | 20 cases before the courts (criminal procedure) | |
| Total (ECU) | | | **4,813,106** | | **47,469,183** | | **52,546,485** |

# BANANAS

## AM form 72/94

*Table 4*

| Country | T1 documents | Fraud forms | Amount in A account | | Amount in B account | | Appeals situation | Total (ECU) |
|---|---|---|---|---|---|---|---|---|
| | | | National currency | ECU | National currency | ECU | | |
| Italy (1) | 298 | 4 | 1,015,481,460 | 524,314 | 9,224,261,250 | 4,762,679 | Criminal and civil proceedings | |
| | | | | | | | | |
| **Total (ECU)** | | | | **524,314** | | **4,762,679** | | **5 ,286, 993** |

(1) LIT 9 142 633 450 is covered by a criminal and civil procedure.

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# HILTON BEEF

## AM form 52/93

Table 5

| Country | Fraud forms | Amount in A account | | Amount in B account | | Appeals situation | Amounts not entered in B account | | Total (ECU) |
|---|---|---|---|---|---|---|---|---|---|
| | | National currency | ECU | National currency | ECU | | National currency | ECU | |
| Germany (1) | 1 * | 129,008 | 65,273 | 34,530,286 | 17,471,213 | 4 | **187,011** | **94,622** | **17.631,111** |
| Spain (2) | 1 | | | 28,147,882 | 168,516 | 7 | | | **168,516** |
| France (3) | 3 | | | 33,823,277 | 5,113,118 | 3 | | | **5.113,118** |
| Italy (4) | 1 | | | 75,605,130 | 39,036 | 1 | | | **39,036** |
| Netherlands | no FF | 113,853 | 51,115 | | | | | | **51,115** |
| United Kingdom | 8 | | | 2,270,697 | 3,393,025 | | | | **1.393,025** |
| Total (ECU) | | | **116,388** | | **26,184,911** | | | **94,622** | **25.395,921** |

*** : no fraud forms in 14 cases**

Notes :

**(1)** Four firms have appealed to the Court of Justice against Commission decisions ruling that the remission of DM 11 777 947 in import duties was unjustified. On 24 April 1998 the Commission appealed against a judgment by the Court of Justice on 19 February 1998 in favour of an appeal involving DM 11 412 736.

**(2)** Administrative appeals in all 7 cases.

**(3)** The three cases are being investigated with a view to court proceedings.

**(4)** Criminal proceedings for smuggling and a civil procedure against the payment order in respect of the duties evaded. The amount is guaranteed.

# TUNA FROM COSTA RICA

## AM form 17/95

*Table 6*

| Country | Fraud forms | Amount in A account | | Amount in B account | | Amounts time-barred | | Appeals situation | Total (ECU) |
|---|---|---|---|---|---|---|---|---|---|
| | | National currency | ECU | National currency | ECU | National currency | ECU | | |
| Germany | | | | | | | | | |
| Spain | | | | 35,697,842 | 213,717 | | | | 213,717 |
| France (1) | 3 | | | 975,523 | 147,471 | | | (1) | 147,471 |
| Italy (2) | 4 | | | 2,579,595,850 | 1,331,899 | 2,882,624,042 | 1,488,359 | (2) | 2,820,258 |
| Portugal | | | | 61,907,305 | 370,629 | 471,082,534 | 2,820,296 | | 3,190,925 |
| United Kingdom | | | | 4,469 | 6,678 | | | | 6,678 |
| **Total (ECU)** | | | | | **2,070,394** | | **4,308,655** | | **6,379,049** |

Notes :
(1) Appeals made to CCED in 3 cases involving FF 975 523.
(2) Civil procedure involving LIT 630 162 990

# CLOTHING FROM LAOS

## AM form 58/92

*Table 7*

| Country | Fraud forms | Amount in A account | | Amount in B account | | Amounts time-barred | | Appeals situation | Amounts not entered in B account | | Total (ECU) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | National currency | ECU | National currency | ECU | National currency | ECU | | National currency | ECU | |
| Belgium | | 12,963 519 | 317,993 | 7,630,319 | 187,170 | 1,702,592 | 41,764 | | | | 546,927 |
| Denmark | 6 | 1,360,321 | 180,804 | | | | | | | | 180,804 |
| Germany (1) | 3 * | 3,159,669 | 1, 598,691 | 471,500 | 238,564 | 291,778 | 147,630 | 2 | 370,083 (2) | 187,250 | 2,172,075 |
| France (2) | 11 | 2,807,679 | 424,441 | 5,644,112 | 853,229 | | | 2 | | | 1,277,670 |
| Italy (3) | 5 | 108,559,915 | 56,052 | 603,790,230 | 311,750 | 35,197,210 | 18,173 | 4 | | | 385,975 |
| Netherlands (4) | 1 | 1,092,552 | 490,512 | 1,902,468 | 854,132 | | | 28 | | | 1,344,644 |
| Austria | 1 | 253,808 | 18,246 | 179,087 | 12,874 | | | | | | 31,120 |
| Finland | 1 | 1,549 | 259 | 61,516 | 10,300 | | | | | | 10,559 |
| United Kingdom | 2 | 237,265 | 354,537 | | | | | | | | 354,537 |
| **Total (ECU)** | | | **3,441,535** | | **2,468,019** | | **207,567** | | | **187,250** | **6,304,371** |

* no fraud forms in 23 cases

Notes:

(1) Two cases involving DM 277 216 are before the courts.

(2) Two cases involving FF 4 953 295 are before the courts and a further case involving FF 355 409 will follow. The entitlements in another case involving FF 585 408 are being paid off in monthly instalments of FF 25 000 . So far, FF 250 000 has been recovered.

(3) Three cases involving LIT 110 351 350 are before the courts (criminal procedure) and administrative appeals have been made in five cases involving LIT 493 438 881.

(4) 28 cases involving HFL 2 436 135 are subject to appeal. One case involving HFL 30 798 relates to a bankrupt firm.

# TEXTILES FROM CAMBODIA

## AM form 82/94

*Table 8*

| Country | Fraud forms | Amount in A account | | Amount in B account | | Amounts time-barred | | Appeals situation | Total (ECU) |
|---|---|---|---|---|---|---|---|---|---|
| | | National currency | ECU | National currency | ECU | National currency | ECU | | |
| **Belgium** | 9 | 7,560,347 | 185,453 | 13,282,845 | 325,825 | | | | 511,278 |
| **Denmark** | 4 | 4,261,161 | 566,497 | | | 25,005 | 3,389 | | 569,886 |
| **Germany** | 6 * | 2,518,344 | 1,274,201 | 853,442 | 431,814 | | | 1 | 1,706,015 |
| **Greece** | | 606,844 | 1,957 | 606,844 | 1,957 | | | | 3,914 |
| **Spain** | | | | 1,357,838 | 8,129 | | | | 8,129 |
| **France** | 2 | 255,518 | * 38,627 | 398,891 | 60,301 | | | | 98,928 |
| **Italy** (1) | 3 | 383,864,280 | 198,105 | 919,574,450 | 474,753 | | | 4 | 669,360 |
| **Netherlands** (2) | * | 799,754 | 359,058 | 734,447 | 329,737 | | | 5 | 688,795 |
| **Austria** | 9 | 2,143,065 | 154,063 | 886,800 | 63,751 | | | | 217,814 |
| **Portugal** | 1 | 2,504,987 | 12,411 | | | | | | 12,411 |
| **Finland** | | 160,183 | 26,819 | | | | | | 26,819 |
| **UK** (3) | 19 | 784,521 | 1,172,283 | 654,173 | 977,508 | | | 1 | 2,149,791 |
| Total (ECU) | | | **3,989,474** | | **2,673,775** | | **3,389** | | **6,663,140** |

* Germany : no fraud forms for 19 cases

* Netherlands : no fraud forms for 17 cases

Notes:

**(1)** Two cases involving customs duties of LIT 742 866 410 are subject to a criminal and civil procedure and three others involving customs duties of LIT 114 747 5860 to administrative appeals.

**(2)** Five cases involving HFL 296 423 are subject to appeals.

**(3)** One case involving UKL 288 172 is before the courts.

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# CAR RADIOS FROM INDONESIA
## AM form 16/92

*Table 9*

| Country | Fraud forms | Amount in A account - national currency (and ECU) | | Amount in B account - national currency (and ECU) | | Amounts time-barred | | Amounts cancelled | Appeals situation | Total (ECU) |
|---|---|---|---|---|---|---|---|---|---|---|
| | | customs duties | anti-dumping duties | customs duties | anti-dumping duties | customs duties | anti-dumping duties | | | Total (ECU) |
| **B** | 18 | 2,039,779 (50,035) | 1,583.90 (38,848) | 55,204,133 (1,354,148) | 139,137,925 (3, 413, 029) | 3,951,108 (96,920) | 9,708,435 (238,146) | | | 5,191,125 |
| **DK (1)** | 1 | 41,121 (5,466) | | | | | | | | 5,466 |
| **DE (2)** | | 1,507,057 (762,523) | | 3,140,703 (1,589,095) | | 116,090 (58,738) | | | | 2,410,356 |
| **E** | | | | | | | 23,663,453 customs duties and anti-dumping duties (141,669) | | | 141,669 |
| **F** | 4 | | | 1,098,523 (166,065) | 811,561 (122,684) | | | | All before the courts | 288,749 |
| **I (3)** | 18 | 381,320,688 (196,885) | 250,438,810 (129,307) | 1,670,517,461 (862,523) | 4,043,935,464 (2,087,968) | | | | 10 cases before the courts | 3,276,682 |
| **NL (4)** | No FF for 19 cases | 823,889 (369,898) | | 223,235 (100,.226) | | | | | 13 cases | 470,124 |
| **UK (5)** | 6 | 527,444 (788,141) | 61,049 (91,223) | 25,246 (37,724) | | | | 1,112,500 (1,662,371) | | 2,579,459 |
| **Total (ECU)** | | **2,172,947** | **259,378** | **4,109,781** | **5,623,681** | **155,658** | **379,815** | **1,662,371** | | **14,363,630** |

(1) The Danish authorities repaid DKR 423 719 in customs duties to an importer as the public prosecutor did not have sufficient evidence to bring the case to court.
(2) Although DM 5 million is still to be recovered, the German customs authorities have failed to establish the anti-dumping duties as the conditions laid down in Regulation (EEC) No 2632/70 are not considered to have been met. No fraud forms for 15 cases.
(3) The customs duties and anti-dumping duties in the 10 cases before the courts (criminal and civil procedure) total LIT 5 689 240 555.
(4) No fraud forms for 19 cases.
(5) Following an appeal, the United Kingdom cancelled the notification of UKL 1 112 500 in anti-dumping duties. The UK authorities consider that the Community mission had not reliably established that the car radios were Korean in origin.

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# BICYCLES FROM VIETNAM

## AM form 78/94

*Table 10*

| Country | Fraud forms | Customs duties | | | | Antidumping duties | | | | Amounts time-barred | | Appeals situation | Total (ECU) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | A account - nat. currency | ECU | B account - nat. currency | ECU | A account - nat. currency | ECU | B account - nat. Currency | ECU | National currency | ECU | | |
| Belgium | 1 | 1,086,653 | 26,655 | | | | | | | | | | 26,655 |
| Germany | No FF | 54 | 27 | 137,374 | 69,507 | | | | | | | | 69,534 |
| France (1) | 5 | 83,774 | 12,664 | 34,390,802 | 5,198,912 | 216,161 | 32,677 | 55,605,171 | 8,405,921 | | | 1 | 13,650,174 |
| Ireland (2) | | 3,769 | 4,985 | | | | | | | 3,204 | 4,236 | | 9,221 |
| United Kingdom | No FF | | | 152,383 | 227,700 | | | | | | | 1 | 227,700 |
| Total (ECU) | | | **44,331** | | **5,496,119** | | **32,677** | | **8,405,921** | | **4,236** | | **13,983,284** |

Notes:

**(1)** Appeals for four cases involving FF 34 390 802 in customs duties and one case involving FF 53 696 992 in anti-dumping duties. No fraud forms have been issued.

**(2)** IRL 3203.95 in customs duties from 1992 is time-barred. IRL 6 875. 64 in anti-dumping duties from 1993 has not been established as it could not be determined that the goods actually originated in China.

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# OVERVIEW

## Recovery situation for sample B98

*Table 11*

| (1) Cases by Member State | | (2) Total by Member State | (3) Entry in A account Payments made | (4) Entry in B account | | (5) Time-barred or exempt | (6) Not entered | (7) Cancelled |
|---|---|---|---|---|---|---|---|---|
| | | | | (4a) Recovery pending | (4b) Cases referred to the courts | | | |
| B | No 5 | 6.75 | 0.3 | 0.2 | | | | |
| | No 6 | | 0.3 | 0.2 | | 0.04 | | |
| | No 7 | | 0.2 | 0.3 | | | | |
| | No 8 | | 0.09 | 4.8 | | 0.3 | | |
| | No 9 | | 0.02 | | | | | |
| DK | No 6 | 0.758 | 0.2 | | | | | |
| | No 7 | | 0.55 | | | 0.003 | | |
| | No 8 | | 0.005 | | | | | |
| D | No 2 | 24.98 | 1.2 | | -- | -- | -- | |
| | No 4 | | 0.06 | 17.5 | -- | -- | 0.1 | |
| | No 5 | | - | -- | -- | -- | | |
| | No 6 | | 1.6 | 0.2 | -- | 0.1 | 0.2 | |
| | No 7 | | 1.2 | 0.4 | -- | | -- | |
| | No 8 | | 0.7 | 1.6 | -- | 0.06 | -- | |
| | No 9 | | | 0.06 | -- | | -- | |
| EL | No 7 | (*) | | | | | | |
| E | No 1 | 5.213 | 0.005 | 4.7 | | | | |
| | No 4 | | | 0.15 | | | | |
| | No 5 | | | 0.2 | | | | |
| | No 7 | | | 0.008 | | | | |
| | No 8 | | | | | 0.15 | | |
| F | No 2 | 24.34 | 3.9 | | | | | |
| | No 4 | | | | 5.1 | | | |
| | No 5 | | -- | 0.15 | | -- | -- | |
| | No 6 | | 0.4 | 0.1 | 0.75 | | | |
| | No 7 | | 0.04 | 0.06 | | | | |
| | No 8 | | | | 0.2 | | | |
| | No 9 | | 0.04 | 13.6 | | | | |
| IRL | No 9 | (*) | | | | -- | -- | -- |
| IT | No 2 | 59.5 | | | 47.20 (x) | | | |
| | No 3 | | 0.5 | | 4.70 (x) (°) | | | |
| | No 4 | | | | 0.04 (x) (°) | | | |
| | No 5 | | | 1 | 0.30 (°) | 1.4 | | |
| | No 6 | | 0.05 | 0.24 | 0.06 (x) | 0.01 | | |
| | No 7 | | 0.2 | 0.44 | 0.06 (x) (°) | | | |
| | No 8 | | 0.3 | | 3.00 (x) (°) | | | |
| NL | No 4 | 2.55 | 0.05 | | | | | |
| | No 6 | | 0.5 | 0.8 | | | | |
| | No 7 | | 0.4 | 0.2 | 0.1 | | | |
| | No 8 | | 0.4 | 0.1 | | | | |
| P | No 5 | 3.21 | | 0.4 | | 2.8 | | |
| | No 7 | | 0.01 | | | | | |
| UK | No 4 | 8.747 | | 3.4 | | -- | -- | |
| | No 5 | | | 0.007 | -- | | | |
| | No 6 | | 0.4 | | | | | |
| | No 7 | | 1.2 | 0.6 | 0.4 | | | |
| | No 8 | | 0.9 | 0.04 | | | | 1.6 |
| | No 9 | | | 0.2 | | | | |
| A | No 6 | 0.24 | 0.02 | 0.01 | | | | |
| | No 7 | | 0.15 | 0.06 | | | | |
| FIN | No 6 | (*) | | | | | | |
| | No 7 | | | | | | | |
| Totals | | 136.288 | 15.89 | 51.725 | 61.91 | 4.863 | 0.3 | 1.6 |
| % | | 100.0 | 12 | 38 | 45 | 4 | 0.1 | 0.9 |

(x) Criminal procedure
(°) Civil procedure
(*) Negligible amounts

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