

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMBATING FRAUD

Work programme for 1995

(presented by the Commission)

COMBATTING FRAUD

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Introduction

In 1994 the Commission drew up an anti-fraud strategy with four focal points:

- reinforcing the presence on the ground and support for operations, concentrating on high-risk sectors;
- strengthening the partnership between the Commission and the Member States, extending information networks and improving the exploitation of intelligence;
- improving the Community legislative framework in every sector activity;
- securing greater compatibility between national legislation.

This strategy serves as a basis for more concrete measures.

Like the 1994 work programme, the work programme for 1995 forms part of this basis. In establishing concrete measures, it takes account of the fact that the fight against fraud is a continuous task and that progress is made in stages. Improvement of both the Community and the national legislative framework requires the cooperation of a number of institutions and sometimes raises difficult legal issues. The work involved therefore demands a certain amount of time.

The 1995 work programme is intended to satisfy the following requirements:

- continuity
- coherence
- complementarity.

As the 1994 work programme was not adopted until late March 1994, not all the new initiatives could be completed that year. The work started will have to continue in 1995.

In 1994 the Commission adopted a number of new initiatives to improve the flow of information (Commission Regulations No 1681/94 and No 1831/94 on the organization

of information systems for the Structural Funds and the Cohesion Fund, freephone) and the processing of data (Irene and pre-Irene databases). In the interests of coherence, information must now be processed systematically. In Regulation No 3122/94 the Commission laid down criteria for risk analysis. This approach must be developed and extended to other sectors. The creation of task forces in sensitive areas will increase the awareness of the competent authorities and allow closer cooperation.

As the anti-fraud strategy covers a longer-term framework, the legal mechanisms must gradually be built up. The Council still has to adopt major Commission proposals (in particular the proposals on administrative and criminal-law penalties, the "black list" and the amendment of Regulation No 1468/81). This mechanism will be reinforced by new proposals. The focal points in 1995 will include transit and preferential arrangements.

If measures to combat fraud affecting the Community budget are to be effective, there must be close cooperation among competent authorities of the Member States and between these and the Commission. To promote this cooperation and comply with Article 209a of the EC Treaty, the Commission set up in 1994 a horizontal advisory committee for the coordination of fraud prevention. This committee plays a major role in the development of the anti-fraud strategy and concrete measures to implement this strategy. It is an ideal forum for drawing up the annual work programme, establishing priorities and making preparations for concrete measures.

The 1995 work programme is the first produced under this close cooperation. As in 1994, the Commission will draw up detailed descriptions of all measures under the work programme, allowing the Committee to conduct in-depth discussions.

I. Reinforcing the presence on the ground and support for operations, concentrating on high-risk sectors

1. Reinforcing presence on the ground

1.1. Creation of task forces in sensitive areas where the complicated nature of fraud or its transnational and international aspect requires specific Community support. For this

purpose, it is essential to improve the centralization of information for a particular sector, including both revenue and expenditure aspects. The information compiled by the task forces is analysed to produce a strategy for on-the-spot investigations conducted by the competent national authorities with the possible support of Commission departments which coordinate operations and, if necessary, organize inspections in the Member States.

The operations relating to cigarettes and milk products, started in 1994, and the programme of measures to combat fraud in the textiles sector are to continue; these task forces will be extended to the olive oil and beef and veal sectors in 1995.

1.2. Within the framework of partnership, as defined in the anti-fraud strategy, the Commission has stepped up its targeted missions of inquiry in collaboration with the Member States, based on the operational reinforcement of the central structure, which was reorganized in 1994. This operation, which is intended to maximize the results obtained on the ground with the Member States, will be a priority for 1995.

1.3. Continuation of stage 1 (establishing the system) with a view to computerizing all the offices involved in the transit procedure in order to permit closer monitoring of products covered by these arrangements.

1.4. Application of the penalty clause introduced in the generalized system of preferences granted to developing countries when the beneficiary countries do not respect a number of basic principles of the scheme.

2. Support for operations

2.1. Tougher legislation:

The legal mechanisms must be supplemented and reinforced in order to improve the basis for operations on the ground. For details see III below.

2.2. Measures to increase political awareness of risks of fraud (Commission communication) in the following sectors:

- transit arrangements (contacts with operators, establishment of database);
- preferential systems (with the importers responsible for the payment of entitlements due, and with non-member countries, which must meet the conditions for granting generalized preferences).

3. Concentration on high-risk sectors

3.1. Information analysis:

Operations will be guided by the results of analyses, in particular risk analyses, conducted by the Commission in close collaboration with the Member States.

3.1.1. Reports by Member States:

- for structural operations, based on initial reports under Regulations No 1681/94¹ and No 1831/94² governing the notification by the Member States of case of fraud and irregularities in the Structural Funds and the Cohesion Fund;
- for own resources, based on reports under Regulation No 1552/89 concerning the application of the system of own resources³, for which the provisions on the notification of irregularities have to be amended (Article 6 of the proposal for a Council Regulation amending Council Regulation No 1552/89 therefore contains a number of provisions to improve the Commission's monitoring of administrative and accounting aspects);
- for expenditure under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, based on reports under Regulation No 595/91 concerning irregularities and recovery of amounts paid out under the CAP;

¹ OJ L 178, 12.7.1994.

² OJ L 191, 27.7.1994.

³ OJ L 155, 7.6.1989.

- for the customs and agriculture sectors, based on reports under Regulation No 1468/81 concerning mutual assistance in customs and agriculture⁵.

3.1.2. Collating the files of beneficiaries of subsidies or increased aid from the Commission under agreements or contracts administered by the relevant DGs (direct expenditure).

3.2. Exploitation of findings of inquiries:

- Improved monitoring through more effective feeding of information into the Irene base;
- development of a selective targeted monitoring system based on the most relevant financial aspects;
- clarification of Member States' responsibility for the recovery of traditional own resources, in particular when several Member States are concerned;
- in the agricultural sector in particular, establishment of a procedure of the type existing for own resources (separate account for amounts to be recovered but not yet collected);
- proposals to ensure that national rules limiting the time during which recovery action can be taken do not hinder or complicate the recovery of Community funds.

II. Strengthening the partnership between the Commission and competent authorities of the the Member States, extending information networks and improving the exploitation of intelligence

1. **Strengthening the partnership between the Commission and the Member States:**

- Information, organization of specific training courses for national officials, in consultation with and at the request of Member States;

⁴ OJ L 67, 14.3.1991.

⁵ OJ L 144, 2.6.1981, p.1.

- use of the Advisory Committee for the preparation of Council discussions and of any point concerning the protection of the Community's financial interests;
- technical assistance, establishment of a permanent financial assistance mechanism for departments specializing in fraud prevention in the Member States.

2. Extending information networks

- Evaluation of the initial results from the freephone;
- introduction of a system of payment for informants ("whistleblowers") for an initial period of one year;
- establishment of implementing rules for the Council Regulation on measures to be taken against certain beneficiaries of operations financed by EAGGF Guarantee ("black lists" of operators found guilty or suspected of previous fraud);⁶
- continued development of customs information system allowing rapid and direct interchange via a Community network;
- establishment of SID database (Customs Information System) once the legal base is introduced in the new Regulation on mutual assistance.

3. Improving the exploitation of intelligence

- Greater use of risk analysis by both Member States and the Commission;
- Ensure follow-up action on fraud cases and speed up recovery of Community funds by using the IRENE data base.

III. Improving the Community legislative framework in every sector of activity

1. Active contribution so that the Council can adopt as soon as possible the proposal for a regulation on the protection of the Community's financial interests. On the basis of

⁶ As the Council has agreed to the proposal, it should be accepted after Parliament has delivered its opinion.

this instrument, which contains general provisions on control and penalties, the Commission will:

- examine the possibility of extending the system of administrative penalties to all budget sectors, particularly the Structural Funds;
 - examine the possibilities of ensuring a more effective level of control in the Community by also strengthening control mechanisms in the various sectors of the Community budget;
 - give priority to the amendment of regulation No 1552/89 and to updating Council Regulation No 165/74 on the powers of control of officials appointed by the Commission in the field of own resources⁷;
2. The Commission will give top priority to adoption of the proposal for a regulation⁸ to replace Council Regulation No 1468/81, which currently governs mutual assistance procedures in customs and agriculture.
3. The Commission will propose that the legal mechanism for transit and trade with non-member countries be supplemented:
- improvement of transit arrangements (including realistic increase of guarantee scheme);
 - strengthening of Regulation No 3665/87⁹ on export refunds for agricultural products for products exported with a refund and subsequently reimported after obtaining third-country origin, exempting them from some or all of the import duties;

⁷ OJ L 20, 24.1.1974.

⁸ OJ C 262, 28.9.1993, p.8; OJ C 80, 17.3.1994, p.12.

⁹ OJ C 351, 14.12.1987.

- establishment of implementing rules following amendments to Council Regulation No 4045/89¹⁰ concerning the controls to be carried out by Member States in agricultural sector in Regulation No 3094/94;¹¹
 - introduction of appropriate provisions on mutual assistance and administrative cooperation in agreements with non-member countries;
 - strengthening of anti-fraud clauses in agreements with non-member countries when preferential duties or quantitative restrictions are involved.
4. The Commission will consider proposing a legal instrument to extend cooperation to the fight against financial crime in order to improve coordination at Community level of all operational activities at the stage before legal procedures are started.
 5. The Commission will consider strengthening ex ante assessment of the controllability of new provisions and extending it to all financial sectors.

It will evaluate regulations ex post from the point of view of simplification and sensitivity to fraud.

IV. Securing greater compatibility between national legislation

1. On the basis of the Resolution of December 1994 by the Council (justice and home affairs) and the conclusions of the Essen European Council calling for a legal instrument on the protection of financial interests in criminal law before the end of the French Presidency, the Commission intends to cooperate actively to produce a result within the time limits laid down. Within this framework it will make its

¹⁰ OJ L 388, 30.12.1989.

¹¹ OJ L 328, 12.12.1994.

contribution during the current negotiations to approximate the criminal law of the Member States. The protection afforded to the Community's financial interests must be uniform and effective in order to meet the challenges posed by international financial crime networks.

2. The Commission will draw up a report on how Member States apply Article 209a of the Treaty on European Union on the basis of the national reports requested by the Essen European Council in accordance with the conclusions of the Council (economic and financial affairs) of 16 January.

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