



COMMISSION OF THE EUROPEAN COMMUNITIES

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PROTECTION OF THE COMMUNITY'S FINANCIAL INTERESTS

**FIGHT AGAINST FRAUD
WORK PROGRAMME 1996**

(presented by the Commission)

Referring explicitly to the work completed in 1995, in particular the comparative analysis of Member States' reports on measures taken to combat fraud, the European Council of Madrid adopted and gave its full support to the conclusions of the ECOFIN Council of 27 November 1995. In doing this it called on the Member States and institutions to take the necessary measures to ensure an equivalent level of protection of financial interests throughout the Community.

The Commission's anti-fraud work programme, while fitting into the scheme of its general programme which was presented to the Council and Parliament in November 1995¹ takes fully into account these essential guidelines.

The Commission will also ensure that this major concern is taken into consideration in the course of work on the Intergovernmental Conference.

1. In its general work programme, the Commission, with regard to its anti-fraud priorities, specified that :

"The measures to strengthen the legal protection of the Community's financial interests will be amplified. New administrative penalties will be introduced. Partnership with the Member States will be strengthened. Community legislation and programmes will be revised to enhance effectiveness, reduce the risk of fraud and give more flexibility in management."

2. In accordance with these general guidelines, the Commission will present hereafter a detailed programme of specific anti-fraud activities for 1996. This detailed work programme aims to clarify further the guidelines contained in the general programme with a series of selective activities. These activities are grouped around 4 main headings which the Commission developed in presenting its anti-fraud strategy in 1994, namely :

- stronger presence on the ground and firmer support for operational activities, concentrating on risk sectors;

¹ See COM(95)512 final of 20 November 1995.

- stronger partnership between the Commission and the Member States, development of information networks and better use of intelligence;
 - improvement of Community legislation in areas of activity;
 - securing greater compatibility between the legislations of member States.
3. The activities in this work programme are set out under these four main headings and already take account of the need to achieve an equivalent level of protection throughout the Community as the European Council of Madrid expressly requested.
 4. As in the past, a number of specific activities in the 1996 programme are taken from previous programmes either because they are of a permanent nature and are essential for a global approach to fraud prevention or because more time is required to complete the work required.
 5. On the one hand, the new activities stem from the Council conclusions of 19 June 1995 adopted following discussions on the 1994 annual report on the fight against fraud; the Council, in the framework of the procedures for adopting the regulation and the Convention on protection of Community financial interests, called upon the Commission to put forward additional initiatives to finalize these instruments. On the other hand, the activities follow on from the analysis made by the Commission of the Member States' reports on measures taken to combat fraud as well as from the conclusions adopted by the Council of 27 November 1995 on the basis of this analysis.
 6. A number of guidelines resulting from this comparative analysis require further information to be obtained to enable the Commission to carry out a more detailed study (for example, prevention, the question of out-of-court settlements, results following inspections and follow-up action in fraud cases, etc.). In this context, the Commission is directing its work to clarifying further the mechanisms likely to ensure an equivalent level of protection of financial interest throughout the Community. This work will begin shortly but its impact on anti-fraud policy will not be measurable in 1996.

7. While these new activities fall in the main under the strategic headings of better use of intelligence, improvement of Community legislation and greater compatibility between the legislation of Member States, it is essential to continue also to highlight the importance of a presence on the ground and support for operational activity as advocated by the ECOFIN Council.

8. This detailed programme of activities responds to the wishes expressed by the European parliament which justifiably insisted that the Commission's general programme should be clarified in respect of protection of financial interests and the fight against fraud and that it should be presented in such a way as to enable a regular assessment of it to be easily made.

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I. Stronger presence on the ground and firmer support for operational activities, concentrating on risk sectors

To increase the effectiveness of the fight against fraud, inspections and controls undertaken by the Commission's inspectors must be carried out within a specific fraud prevention framework covering all the areas of the Community budget. The purpose of the Commission proposal for legislative action referred to at III, 1.b. of the 1996 programme will be to clarify the specific material provisions with a horizontal application for on-the-spot controls and inspections (rights, obligations, procedures) to enable the Commission's inspectors to carry out their operational anti-fraud missions on the ground together with the national authorities.

Contacts between the different judicial authorities and between the latter and the Commission must be strengthened and made easier. Initiatives in the framework of the third pillar referred to at point IV, 3 meet this objective.

2. In addition to this legislative activity, the Commission will encourage direct contact with the investigation departments and judicial authorities in the Member States as well as with the competent bodies in the non-member countries, in particular the countries of Central and Eastern Europe.

In the framework of the 'sound and efficient' management initiative concerned with implementation of activities financed by the Community for the benefit of the countries of central and eastern Europe and the new independent States, the Commission services concerned will proceed to reinforce their capacity to carry out on-the-spot controls.

3. The cigarettes and textiles task groups will continue to function. The olive oil and "beef" task groups will move to the operational stage.

Teams will consist of specialists and inspectors from all relevant departments at the Commission and in the Member States, depending on the area under investigation. The object of the task groups exercise is to optimize cooperation between all Commission and national bodies acting in partnership to tackle the same problem. The direct links between

the components of a task group cut the time needed to react to situations giving cause for concern and new forms of fraud.

4. The computerization of transit operations seeks to make the procedure more efficient and to offer a means of early detection and effective prevention of fraud.²

Once the requisite resources have been released, and the remaining technical and regulatory questions resolved, transit operations should be entirely computerized throughout the Union and EFTA States by 1998.

In addition to computerization, there will have to be an increase in the number of physical checks on goods at offices of destination and entry to avert the risk of fraud.

The use of electronic data-transmission techniques will be further developed and there will be more thorough monitoring of the data that are transmitted. Pending computerization of the transit scheme, the Commission will in the short term strengthen the early warning system (direct contact between entry office and destination office) for high-risk products to make information that is exchanged more readily usable.

5. In the mutual assistance arena, the SCENT³ network will be developed in a systematic fashion to reflect the possibilities and needs of the various user categories.

The number of users will be increased. The use of the communications infrastructure and technical facilities developed (e.g. e-mail) could be extended to other authorities involved in combating fraud, for matters falling within their specific area of responsibility e.g. distribution of documents, while maintaining strict compliance with their respective competencies.

6. Non-member countries and Community operators must be made more fully aware of the impact of fraud in Customs regimes and preferential schemes, in particular in the textile sector, and reminded that importers are liable to the Community for amounts evaded.

² See Council Resolution of 23.11.1995 on the computerization of the customs transit scheme: OJ C 372, 7.12.1995, p. 2.

³ System Customs Enforcement Network.

Preferential concessions are given to stimulate the economic development of non-member countries or to tighten the Community's economic links with its partners. Infringements of provisions governing preferential tariff schemes are damaging not only to the economy of the non-member country enjoying the benefit of the scheme but also to the Community's financial interests.

A Commission communication to be submitted directly to the Parliament and Council on the current situation in the area of preferential agreements is planned. It is aimed at making them aware of the need to adopt the following measures :

- inform economic operators of the risks inherent in the use of preferential Customs regimes and arrangements and of their responsibilities;
- inform non-member countries who benefit from Community preferences of the obligations arising from acceptance of the agreements. In addition, measures aimed at assisting operators to overcome risks linked with trade with non-member countries will be studied.
- inform Member States of "systems control audit";
- send a questionnaire to each country benefitting from preferential treatment requesting information on inspection measures which they have taken;
- put forward a horizontal legal instrument establishing provisions for the suspension from autonomous preferential arrangements or concerning European Union agreements in accordance with the Community's contractual obligations;
- the establishment by the Commission of a specific investigation mechanism for grievances and infringements of the provisions of EEC regulation N° 3281/94 and more specifically article 9;
- improve the financial follow-up of investigation cases.

7. Operational activities on the ground will increasingly be guided by risk analysis findings. The development of activities here falls into the second area of priority referred to in II.6.

II. Stronger partnership between the Commission and the Member States, development of information networks and better use of intelligence

1. The approach to training adopted is aimed at meeting priority needs. The training of officials in the Member States will be more closely targeted on specific areas and preferably provided for those services specializing in the fight against fraud against the Community budget.

The Commission is particularly attentive to training for staff and services involved in implementing structural policies.

The Commission also feels that there is much to be gained from establishing contacts with the countries of Central and Eastern Europe, where the Union supplies extensive project financing. It is very much in the Community's interest to cooperate closely and ensure that the development of activities in these countries and trade with them proceed as planned.

These activities must also be set in the perspective of enlargement. National administrations will be made aware through training courses of the risks of fraud in certain areas of Community policy.

These actions correspond with the wishes expressed by these countries in their contacts with the Commission.

2. In the merging and strengthening of items used to finance anti-fraud measures in the 1996 budget, priority will be attached to assistance to specialist anti-fraud departments, notably to enhance their operational capacities in combating fraud against the Community budget.

Regarding EAGGF Guarantee Section expenditure, the Commission will continue to support the Member States financially in carrying out action plans to improve the

structure and efficiency of inspectorates, following the criteria and procedures set out in its proposal to the Council.⁴

3. Evaluation of the first year of operation of the freephone number was favourable, and the scheme will continue to run.

In 1996 the scheme will be extended to the three new Member States.

4. Communications between the Member States and between the latter and the Commission following the rules for the implementation of Council Regulation (EC) No 1469/95⁵ of 29 June 1995 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF (black lists) : see III.3.
5. The working parties set up in the appropriate bodies will be invited to investigate the following matters in particular:
 - the system for exchanging mutual assistance forms. If need be, measures will be taken to ensure optimal use of the resultant information and thus boost its effectiveness;
 - the establishment of a central CIS⁶ database following adoption of the proposal for a Regulation on mutual assistance in customs and agricultural matters, the aim being to improve the efficiency of the use made of information exchanged between Member States via SCENT.
 - the consequences to be drawn from analysis of frauds and irregularities detected with a view to enhancement of the databases.
6. Irene and Pre-Irene will be replaced by a new base, Irene 95, which will incorporate all irregularity cases detected, irrespective of the source of the information (Member State report, MA form, UCLAF investigation, etc.), make cases easier to monitor (financially also) and make intelligence easier to exploit.

⁴ COM(95)467 final, 12.10.1995: Proposal for a Council Regulation on the implementation of Member States' action plans on control of EAGGF Guarantee Section expenditure.

⁵ OJ L 145, 29.6.1995, p. 1.

⁶ Customs Information System.

7. To intensify the use made of intelligence, studies will be carried out by the Joint Research Centre at Ispra in the context both of its institutional support for the Commission and of its competitive support projects. An in-depth statistical analysis of cases already stored in Irene will be undertaken to analyse risk factors inherent in certain types of transaction and establish fraud profiles. UCLAF will evaluate software products available on the market so as to equip itself with high-performance tools.
8. In relation to own resources, the value of the information contained in the reports foreseen under the amendments to Regulation (EC, Euratom) No 1552/89⁷ will clearly be improved by the implementation of provisions which have already been included in a Council joint position which will require better co-operation between the Commission and national administrations.

The Commission will continue its sample case-by-case monitoring to help the Member States in their efforts to recover receipts involved in major fraud cases. The aim is not only to accelerate the recovery procedure, obtain the payments due in specific cases and improve the rate of recovery but also to use individual cases to identify legislative measures that might be needed.

The study now under way on the Member States' recovery arrangements, referred to in item III.2 on transit (harmonisation of time limits for recovery from principals for whom guarantees have been given), is aimed at ensuring the effectiveness of and equal treatment for the protection of the Community's financial interests in this area. If initiatives of a legislative nature are deemed necessary to achieve this, the Commission will make the proposals required.

Various measures taken in the Community transit field including increase of the guarantee for sensitive goods should also lead to an improvement in the recovery of traditional own resources.

⁷ Adoption of the Council's common position on 17.11.1995 for the adaptation of Regulation (EC, Euratom) No 1552/89 implementing Decision 88/376/EEC, Euratom on the system of the Community's own resources.

Regarding the Structural Funds, the Commission will insist that Member States take irregularity⁸ reporting more seriously.

9. As requested by the Madrid European Council, the Commission will consider the possibility of extending from agriculture to other areas the system of disallowing finance. This exercise is to be carried out within the framework of action on sound and efficient management (SEM2000).

III. Improvement of Community legislation in areas of activity

1. The Council Regulation on protection of the Community's financial interests having been adopted⁹, the Commission will:
 - (a) continue the study undertaken of the comparative analysis to respond to the Council request for the system of administrative penalties to be extended to areas of the budget where they are needed, notably the Structural Funds;
 - (b) work actively for adoption by the Council of the proposal for a Regulation "concerning on-the-spot checks and inspections for the detection of fraud and irregularities detrimental to the financial interests of the European Communities"¹⁰ in the first half of 1996;
 - (c) then update Council Regulation No 165/74 on the powers of authorized Commission representatives in relation to own resources;
 - (d) adopt rules for the implementation of Regulation (EC) No 1469/95 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF (black list).

⁸ As defined in article 1(2) of Regulation (EC, Euratom) N° 2988/95 of 18.12.95 on the protection of the European Communities financial interests : 'Irregularity' shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

⁹ Regulation (EC, Euratom) N° 2988/95 of 18.12.95, O.J. N° L 312 of 23.12.95, p. 1.

¹⁰ Doc. COM(95)690 final.

2. As announced in its communication of 29 March 1995¹¹ on the Community transit scheme, the Commission will make the necessary additional proposals in terms both of the practical application of the relevant provisions and of the provisions themselves.

Following on from the existing scheme and agreements (amendments to provisions governing the comprehensive guarantee, acceleration of the procedures for discharging transit documents, determination of compulsory routes), the Commission intends to amend the relevant legislation¹²:

- more flexible procedure for banning use of the comprehensive guarantee to cover transactions involving high fraud risk goods, so that these transactions are covered for all import duties concerned;
- acceleration of the procedures for discharging transit documents for sensitive goods;
- determination of compulsory routes (limiting journey times);
- banning any change in the office of destination;
- increase comprehensive guarantee to 100%;
- re-examination of cases where temporary suspension of use of the guarantee has already been applied
- reinforcement of *ex post* controls;
- consideration of more appropriate sharing of responsibility for the Customs debt between the different possible debtors in the transit area;
- harmonization of time limits for recovery from principals for whom guarantees have been given;
- mandatory use of T2 or T2L documents for Community goods carried by sea.

In addition, the Commission will provide the necessary assistance in the enquiry which Parliament intends to carry out on fraud in the transit regime under article 138C of the EC Treaty.

¹¹ Doc. COM(95)108 final.

¹² The Committee has already expressed approval of the first four points. The other points will be examined internally with a view to proposing any amendments to regulations considered necessary.

3. The Commission will play its part, in close co-operation with the Member States, in the review of the TIR Convention, with a view to improving detection of frauds in the TIR regime.
4. The Commission will evaluate all positive and negative incentives to the Member States to detect and report fraud and irregularity cases to ascertain whether these incentives are adequate.
5. The Commission, as part of its action to achieve sound and efficient management, will ensure evaluation of legislation in terms of clarity, enforceability and vulnerability to fraud from the initial proposal up to the final phase of its adoption

Regarding *ex post* evaluation, the same principles are applied by identifying high risk fraud sectors so as to target efficiently examination of legislation¹³

Experience in fraud prevention, financial control and risk analysis will be fully exploited to complete these missions successfully. The views of the competent services in the field will be systematically highlighted so that account is taken to ensure fraud proofing of legislation.

6. The Commission will continue its work with a view to adoption of the proposal for a Regulation on mutual assistance in customs and agricultural matters to replace regulation 1468/81. Following adoption of this proposal, the CIS implementing rules for the database will be specified in the implementing provisions.

The Commission will also participate in the final adoption of regulation 1552/89.

¹³ In this context, the Commission is planning to examine the rules governing limitation periods for guarantees in the customs code, [import duties on beef,] the question of staffing for Regulation (EC) No 2048/89 laying down general rules on controls in the wine sector and the beef export refund, the olive oil production aid scheme and Articles 23 and 24 of Regulation (EEC) No 4253/88 (the Structural Funds Regulation).

IV. Greater compatibility between legislation of the Member States

Following establishment of the Convention on protection of financial interests and the agreement reached on its protocol on corruption :

1. The Commission will present the initiative decided on 20 December 1995¹⁴ so that the Council can adopt this second instrument (presented as a protocol to the Convention on the protection of the Community's financial interests¹⁵) before the year is out. This will establish the liability of corporate bodies and define an offence of laundering the proceeds of fraud. It contains specific provisions relating to judicial cooperation, priority jurisdiction to prosecute and the jurisdiction of the Court of Justice.
2. The Commission will provide active support in the discussion opened by the Italian presidency on joint action to establish a framework for the exchange of liaison magistrates. The latter will be able to contribute to an improvement in the fight against fraud.
3. In the area of corruption, the Commission will participate in the finalisation of the protocol to the Convention on the protection of financial interests and will take the measures necessary to follow up the protocol while taking account of the work and requests of the European parliament in this field.
4. The Commission will monitor the process of ratification of the Convention on protection of the financial interests of the European Communities as well as the procedures for transposition into national legal systems by member States. It will report to the Council on progress with transposition into national penal law.

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¹⁴ COM(95)693 final.

¹⁵ OJ C316, 27.11.95, p. 48.