

# Report of the European Anti-Fraud Office

Sixth Activity Report  
for the period 1 July 2004 to 31 December 2005



30 rue Joseph II  
B-1000 Brussels  
Website: [ec.europa.eu/olaf](http://ec.europa.eu/olaf)

# **REPORT OF THE EUROPEAN ANTI-FRAUD OFFICE**

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\* The statistics in this Report relate to the calendar year 2005, they are therefore comparable with the statistics published in OLAF's Supplementary Activity Report for the year 2004. This printed edition of the Sixth Activity Report incorporates some corrections to the version of the Report originally circulated in English on 13 July 2006. These changes have been on pages 8, 14 and 31.

## **Foreword by the Director of OLAF, Franz-H. Brüner**

It is a privilege to be able to present the sixth Activity Report of the European Anti Fraud Office.

My first term as Director of OLAF expired on 28 February 2005. I was appointed for a second term of five years on 14 February 2006.

For most of the time covered by this Report, therefore, I officiated as Director of OLAF under the principle of continuity. I was charged with the conduct of current business, pending the completion of the complex appointment process which included consultations between the Commission, the Council and the European Parliament.

A number of significant developments for OLAF occurred during this period.

There was further debate about how the core functions of OLAF should develop. Notably, the European Parliament held a hearing in July whose conclusions generally endorsed OLAF's present role and status. On 24 May 2006 the Commission revised its proposal to improve OLAF's main legal base. The European Parliament and the Council are now considering this proposal.

Also in July 2005, the European Court of Auditors produced a Special Report on OLAF. Although much of the audit work was necessarily based on investigations which had been closed many months earlier, the ECA was able to demonstrate that OLAF had made significant progress since its creation in 1999 and at the same time to indicate areas requiring further management attention. I welcome these positive suggestions.

Another high point of the year was the appointment of a new Supervisory Committee in November. The appointment of members with both high qualifications and direct experience of operational anti-fraud work made it possible to resume a constructive dialogue with an active Supervisory Committee. In the words of the incoming Chair of the Supervisory Committee, Mrs Rosalind Wright, formerly Director of the Serious Fraud Office in the United Kingdom, the Committee's role is that of a "critical friend" to OLAF. I am convinced that this constructive approach will strengthen OLAF's ability to do its job.

In November, the Commission launched its Transparency Initiative with the strong support of the Vice-President with responsibility for the fight against fraud, Siim Kallas. OLAF was entrusted with a significant role in the further development of this Initiative which has real potential as an element of a global strategy against fraud.

It was already clear towards the end of my first term of office that a first task for any new Director would be to re-organise the Office to reflect the growth in staff numbers during OLAF's first five years, and to take account of the experience gained. These decisions on the re-organisation of the Office and on senior appointments were necessarily delayed until after my reappointment.

Also unfortunate were the long delays to OLAF's recruitment plans caused by changes to the EU staff regulations and the consequent need for amendments to various technical provisions affecting OLAF staff. These are matters outside OLAF's control.

The restructuring of the Office will therefore be a priority for 2006. This re-organisation will be the basis for my second term as Director, so that OLAF can build on the strengths, the expertise and the knowledge which it has established since its creation in 1999.

July, 2006

F.H. Brüner

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## **EXECUTIVE SUMMARY**

### **Key figures**

- At the end of 2005, OLAF was investigating 452 cases. A further 226 cases were in the initial assessment process. 233 cases were closed during the year.
- In 2005, for the first time, more cases were closed with follow-up (133) than without follow-up (100). This confirms an increase in substantive results obtained from investigations.
- There was a 20% increase in information on suspected fraud received in 2005 relative to 2004. This partly reflects an increase in information supplied by Commission staff and by informants.
- The average duration of the cases remains at somewhat under 2 years.
- A greater proportion of investigations in 2005 were “OLAF owned” (internal and external cases) rather than delegated primarily to Member State authorities (coordination and assistance cases).
- 40 internal investigations were opened in 2005, as against 23 in 2004.
- OLAF’s own investigation activity in respect of the so-called “EUROSTAT affair” largely ended in 2005. Judicial procedures continue in three Member States.
- In the first full calendar year after enlargement, OLAF opened 24 cases in new Member States and 23 cases in acceding and candidate countries.
- Financial recovery has reached a new peak in 2005 with a total of € 203 million recovered.

### **Investigations**

- At the end of 2005, internal investigations totalled 58 open cases and 30 cases in evaluation;
- 2005 saw a further increase in OLAF’s activity in the external aid sector, in partnership with other bodies, in particular the Commission Directorate General AIDCO and ECHO. Cooperation with Member States and other international donors improved.
- The largest proportion of external aid cases continued to relate to Africa (35% of the total).
- OLAF launched major investigations into a number of NGOs active in the aid sector.
- Further improvements need to be made to international cooperation in the fight against fraud in the aid and development sector, particularly to increase information exchange.

- OLAF is paying increasing attention to the public procurement process wherever EU financial interests are at stake and wherever the relevant management decisions are taken.
- The Community structural action in which most fraud has been identified continues to be the European Social Fund.
- False declarations of product origin continue to be the most common fraud in the Customs sector. One such case involving textiles diverted from Asia to the Caribbean has led to the initiation of recovery proceedings for more than €20 million.

### **Intelligence**

- Integration of OLAF's operational intelligence assets into the investigative process has increased across several sectors of OLAF activity, including internal investigations and complex cases involving EU expenditure as well as in the Custom sector.

### **Rules of procedure**

- The third revision of the OLAF Manual was published in February 2005.

### **Case Management System**

- OLAF has further enhanced its Case Management System (CMS) to widen its management applications, in particular for judicial and disciplinary follow-up.

### **Enlargement**

- OLAF has posted liaison officers to Bulgaria and Romania.

### **Cooperation with the United Nations**

- The UN invited OLAF to carry out a peer review of the investigative arm, the office of Internal Oversight Services (OIOS).

### **Disclosure of information**

- The Office received in total 36 requests for access to documents (among which seven were handled also as confirmatory requests) and provided full access to 18 and partial access to 55 documents. One new complaint to the Ombudsman made in the latter half of 2004 and five new complaints made in 2005 related to access to documents (a further three new complaints filed with the Ombudsman in the latter half of 2004 and two in 2005 concerned other matters). A total of 130 Parliamentary questions concerning OLAF (120 written and 10 oral questions) were handled.

### **OLAF and the media**

- OLAF intensified its dialogue with journalists and their trade associations by organising a joint seminar with the International Federation of Journalists (IFJ) for members of the OLAF Anti-Fraud Communicators' Network (OAFCN) on building mutual trust between anti-fraud services and journalists.

### **Training**

- OLAF put renewed emphasis on internal training, in particular tailor-made courses for investigators (for instance interviewing techniques).



## **MISSION STATEMENT**

### **OLAF's Objectives**

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, to fight fraud, corruption and any other illegal activity, including misconduct within the European Institutions that has financial consequences. In pursuing this mission in an accountable, transparent and cost-effective manner, OLAF aims to provide a quality service to the citizens of Europe.

### **OLAF's Methods and Means**

The European Anti-Fraud Office achieves its mission by conducting, in full independence, internal and external investigations. It also organises close and regular co-operation between the competent authorities of the Member States, in order to co-ordinate their activities. OLAF supplies Member States, candidate countries and third countries with the necessary support and multidisciplinary technical know-how to help them in their anti-fraud activities, and cooperates closely with international organisations with parallel interests. It contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to strengthen the relevant legislation.

### **OLAF's Principles**

The Office's activities will be carried out with integrity, impartiality and professionalism, and will, at all times, respect the rights and freedoms of individuals and be fully consistent with the law.

# **1. INTRODUCTION**

Previous OLAF Activity Reports have covered successive 12 month periods ending in June. The decision was taken in 2005 to move to reporting on the basis of the calendar year.

The last full Annual Report therefore related to the 12 months to June 2004. A supplement was produced in July 2005 which presented statistics for 2004 and earlier years on a calendar year basis.

The present Report therefore describes, exceptionally, the 18 months from July 2004 to December 2005. However, the statistical information in the present Report relates to the calendar year 2005, so that it can be compared with the information for earlier years published in the supplementary report for 2004. Care is nevertheless needed when drawing conclusions from these statistics since quantity does not reflect the time and resources expended, nor indicate the quality of the outcomes achieved. Nor is it possible to quantify the preventive and deterrent value of OLAF's work in combating fraud.

This Report therefore completes the transition to calendar year reporting. The Annual Report for 2006 will be on a purely calendar year basis.

## **1.1. The Main Competencies of OLAF**

OLAF's Mission Statement summarises the objectives of OLAF: to protect the financial interests of the European Union, and to fight fraud, corruption and any other illegal activity, including misconduct within the European Institutions that has financial consequences. OLAF's responsibilities also involve, over and above the protection of financial interests, certain activities linked with the protection of Community interests from irregular acts likely to lead to administrative or penal proceedings (such as the protection of the euro against counterfeiting). OLAF conducts investigations in full independence. As a service of the European Commission, OLAF also contributes to the design of the anti-fraud strategy of the European Union and takes the necessary initiatives to prepare and strengthen relevant legislation, including instruments which fall under Title VI of the Treaty on European Union (which deals with police and judicial cooperation).

Since OLAF is part of the Commission, it is able to exercise Commission powers. However, OLAF is endowed with budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes two structures to reinforce OLAF's operational independence: guarantees associated with the post of OLAF's Director General, and the Supervisory Committee.

### *Legal Basis*

The Community legal framework for the fight against fraud consists of provisions of the EC Treaty and several instruments of secondary law. OLAF was created and operates on the basis of these instruments. Primary law consists of Article 280 of the EC Treaty which establishes the legal basis for Community action against fraud. In addition, Article 274 establishes that the Commission is responsible for the implementation of the Community budget.

Secondary law includes Commission Decision 1999/352/EC/ECSC/Euratom which creates OLAF, and delegates to OLAF the Commission's powers to carry out all operational activities relating to safeguarding Community interests against irregular conduct liable to result in administrative or criminal proceedings. Specifically, this Decision empowers OLAF to conduct internal administrative investigations (Community institutions, bodies, offices and agencies) and external administrative investigations (economic operators in the Member States) to detect fraud, corruption, and other illegal activities against the Community's financial interests, and to carry out investigative assignments in other areas at the request of Community Institutions. In addition, it empowers OLAF to cooperate with the Member States in the field of fraud prevention; to prepare legislative initiatives; to give technical support, in particular in the area of training, to the other Community Institutions or bodies as well as to the competent Member State authorities; to maintain direct contact with national police and judicial authorities; and to represent the Commission in the forums concerned.

EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999, confer on OLAF powers to conduct internal investigations and all of the Commission's powers to conduct external investigations. It provides that OLAF must conduct investigations with full respect for human rights and fundamental freedoms, including the principle of fairness, the rights of persons involved to express their views on the facts concerning them, and the principle that the conclusions of an investigation may be based solely on elements that have evidential value. These Regulations provide that OLAF shall exercise the powers of the Commission in order to step up the fight against fraud, corruption and any other illegal activities detrimental to the Communities' financial interests.

OLAF conducts administrative investigations within the Community Institutions, bodies, offices and agencies in conformity with EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999, concerning investigations conducted by OLAF. These Regulations specify that OLAF is also charged with investigating serious matters relating to the discharge of professional duties.

Other legislation applies such as Council Regulation (Euratom, EC) 2185/96 which empowers the Commission to conduct on-the-spot external investigations on the premises of economic operators who may have been involved in, or concerned by, an irregularity, when "there are reasons to think that irregularities have been committed," and when (1) they involve economic operators acting in several Member States, (2) the situation in a Member State requires such a check to be strengthened in a case, or (3) at the request of a Member State.

OLAF's powers and tasks are in three main areas: investigations and coordination, intelligence, and development of anti-fraud policy. While OLAF is empowered to conduct internal and external administrative investigations, it may also perform the coordination function by conducting criminal assistance cases, coordination cases, and monitoring cases.

OLAF places priority on the development of effective cooperation with the Member States, in order to co-ordinate their activities. It offers assistance in conducting investigations by providing them with information gathered at Community level, and coordinates operational actions of the national authorities in transnational cases. It maintains direct contact with national judicial, police, and administrative authorities. OLAF has established the Anti-Fraud Information System (AFIS), a secure network for corresponding with the Member States and providing mutual assistance.

OLAF supplies Member States, candidate countries and third countries with the necessary support and multidisciplinary technical know-how to help them in their anti-fraud activities, and provides assistance with respect to specific operations, strategic analysis and risk assessment in order to target resources at the areas of greatest risk. OLAF cooperates closely with international organisations with similar interests.

In addition to the three main functions, OLAF is responsible for a number of other activities. These include: the implementation of Community legislation designed to ensure a coordinated approach within the EU and to assist the Member States in their investigations relating to trade in sensitive products; mutual administrative assistance on customs and agriculture matters among the Member States, between the latter and OLAF and between the EU and third countries; management of the Customs Information System (CIS); and follow-up of the results of OLAF investigations and recovery in the field of direct expenditure following an OLAF investigation, including civil actions in national courts.

## **1.2. The OLAF Manual**

The internal rules of OLAF are set out in the OLAF Manual, which was originally adopted by a Decision of the Director General in 2001. Experience and feedback from within the Office in using the criteria set out in the original version of the manual have helped fine-tune it to a professional standard for the conduct of administrative investigations at an international level. The third revised and comprehensive version of the OLAF Manual came into effect on 25 February 2005. As a living document, it is available to staff in an electronic version. A printed version has been published in cooperation with the Publications Office (OPOCE) (ISBN 92-894-9590-1).

The Manual gives OLAF staff guidance under the following headings:

- Title I. Presentation of OLAF: this provides an overview of OLAF's legal and administrative framework, with emphasis on specific administrative issues.
- Title II. Operational working instructions: this sets out the operational priorities of the Office and outlines the casework procedures to be followed from assessment through to final case closure. A specific section regulates OLAF's approach in respect of the rights of concerned parties, with particular emphasis on the conduct of interviews.

- Title III. Information management: this sets out the procedures relating to internal and external communications, with emphasis on document access issues and information security policy.
- Five Annexes contain standardised forms, notes and letters in use on a daily basis; these are available to investigators electronically through the Case Management System (CMS).

A fourth edition of the OLAF Manual will be produced in due course to reflect changes in the organisational structure of the Office.

*Case study: « CAMOS GRAU » judgement*

On 6 April 2006, the Court of First Instance delivered a judgement in the case T-309/03 Camos Grau versus the Commission.

The Court ordered the Commission to pay €10,000 damages to Mr Manel Camos Grau, a Commission official who had been one of the subjects of an OLAF investigation concluded in October 2002. In the seven years of OLAF's existence, this is the first case that was lost in an action concerning an OLAF investigation. The judgement demonstrates that OLAF does not act in a legal vacuum, but that its investigations are under effective judicial control. The judgement contains three elements which are of significance for OLAF's operational investigation activities.

First, the Court confirmed its existing case law by stating that OLAF's final case reports (in this instance, a recommendation for the opening of disciplinary proceedings) are acts or decisions which do not have obligatory legal effects liable to affect the interests of the person concerned by modifying his legal situation in a specific way.

Second, the Court makes it clear that the strict observation of the principles of the rule of law prevails over the concern to conduct OLAF investigations rapidly.

Third, the Court found that OLAF had not respected the requirement of impartiality in the conduct of its investigation. Although one investigator had been withdrawn from the investigation because of a conflict of interest, that investigator was ruled nevertheless to have exercised influence over the investigation in a manner prejudicial to impartiality. The Court concluded that failure to respect the requirement for impartiality involved the non-contractual responsibility of the Community, in consideration of the damage caused to a private individual by a breach of Community law ascribable to a Community institution or body.

The lesson which OLAF has learnt from this relatively rare procedural circumstance (the apparent conflict of interest on the part of an investigator due to his previous professional responsibilities) is that the Office should show more vigilance and should strengthen its internal procedures in order to avoid any repetition. Since 2005 the OLAF Manual of procedures makes reference to an obligation applicable to all EU staff in the specific context in which OLAF operates: to inform the Director-General of any situation which could generate a possible conflict of interest, whether during the evaluation phase, the investigation itself, or its follow-up. The next update of the OLAF Manual will also take this judgement into consideration.

### *Ombudsman*

In the latter half of 2004 four new complaints against OLAF were filed with the Ombudsman. One of these related to access to documents. During 2005 there were seven complaints of which five concerned access to documents.

Of the complaints filed in the latter half of 2004, the Ombudsman found maladministration in three instances and no maladministration in the fourth. The Ombudsman issued a Special Report to the European Parliament in respect of one of the complaints. This is still under consideration by the Parliament.

One of the two complaints filed during 2005 which dealt with matters other than the access to documents was subsequently withdrawn by the complainant. The other case is still pending.

### **1.3. The Investigations and Operations Executive Board**

The Investigations and Operations Executive Board meets on a weekly basis to provide opinions to assist the Director General in taking decisions relating to the treatment of cases. These decisions concentrate on each new major stage of the lifecycle of cases: opening cases; non-cases; changing case types; closing cases; opening new follow-up paths; closing follow-up. The Board consists of representatives from each Directorate and their respective units thereby ensuring a cohesive formal approach to each decision. The Board continues to be consulted for each new major stage of the lifecycle of the case and where relevant keeps abreast of the external investigative, judicial and associated case partners.

Once a case has been opened and the operational activity has been completed in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage<sup>1</sup>. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up case is formally closed and any associated organs<sup>2</sup> or other parties are informed of the outcome.

If it is decided that there is no need to open a case, for whatever reason, then the case will be classed either as a monitoring case or a non-case. Where a national authority is better suited to investigate a particular matter, but where the information is deemed sufficiently interesting, for example for fraud proofing, OLAF may wish to follow-up on the matter and will designate this as a monitoring case.

Where initial information clearly does not relate to factors within OLAF's competence, the case is closed as a Non-Case Prima Facie without a formal procedure in the Board. For reasons of accountability and transparency, these cases are nevertheless stored in the CMS.

### **1.4. The Case Management System (CMS)**

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<sup>1</sup> In some circumstances follow-up activities may take place before the formal closure of the investigation stage.

<sup>2</sup> Institutions, bodies, offices and agencies

The Case Management System (CMS) was initially developed as a tool to support the efficient management of OLAF's casework. Individual case records are created as new information is received; these records, identified by a unique reference number, remain open throughout the lifecycle of the case. All significant events concerning a case are recorded here and scanned copies of all relevant documents are linked to each case record. This means that case handlers can have instant access to case-related information as they need it.

The CMS is constantly being refined and updated in response to the needs of the operational teams. The judicial and disciplinary follow-up part of the system was redesigned in 2005. As a result of this review a more sophisticated set of data fields were introduced and some 800 case records were updated.

As the CMS has developed it has become the primary source of management information for the Office. Operational statistics, including the information in this report, are generated from the data contained in the CMS. Statistical reports for internal and external use have continued to evolve, supported by a full text search capability.

A number of new modules have been introduced since the last full report:

- The Investigations and Operations Executive Board Module is used to prepare and circulate case-related documents which require a Board decision. The Module facilitates quick and easy access to documents for all authorised parties and is particularly useful for internal consultation. The Board agenda is automatically generated by the Module and work flows can be managed and audited; this ensures the rapid and accurate transfer of information between case-handlers and Board members;
- The Mutual Assistance Module links mutual assistance cases governed by Regulation 515/97 with specific OLAF cases. It is also used to record contact details of all Member State authorities;
- The Legal and Judicial Advice Module is used to manage and record internal requests for legal advice. This Module enables case-handlers to request advice on specific cases and gives the legal experts access to the relevant case file, thus ensuring that advice can be based on a full understanding of all the issues concerned;
- The Greffe Library Module is used to manage the transmission of original case-related documents within OLAF. These documents are normally retained centrally by the OLAF Greffe under the supervision of the Document Management Officer. There are occasions when case-handlers need access to the original documents; this module is used to record the whereabouts of original documents and to ensure that documents do not go missing.

Development of the CMS is a continuous process. The monthly management statistics are being overhauled in 2006, providing a much clearer picture of OLAF's key performance indicators. Further revision of the Case Module is also foreseen, with the emphasis on reviewing the way in which OLAF records its financial, legal and administrative results.

## 2. OPERATIONAL ACTIVITIES

### 2.1. Statistical overview of operations

Figure 1 provides a snapshot of all case records in the CMS by their stage at the end of calendar year 2005. The total number of valid case records is 5,165. This number includes 1,421 UCLAF<sup>3</sup> cases created before 1 June 1999.

*Figure 1: Distribution of all cases by stage at the end of 2005*

Assessment	Non Cases	Non Case Prima Facie	Monitoring	Opened	Closed without action	Follow-up	Follow-up complete	Total
226	1125	347	118	452	1980	714	203	5165

Figure 2 shows the level of incoming information over the past 5 calendar years. The volume of information received has increased by 20% in each of the last 2 calendar years. A procedural enhancement (detailed below) will have contributed to these increases. However the rise has also been supported by an increase in referrals from EU staff and the general public detailed in Figure 15 of this report.

*Figure 2: New information received*

2001	2002	2003	2004	2005	Total
735	571	602	720	857	3485

Each new piece of information received is subject to a process of assessment. Where information is received which clearly and unequivocally falls outside the competence of OLAF, the responsible Head of Unit may propose not to refer the information for full assessment. Since July 2004 this simplified procedure has recorded such information as 'non case prima facie' in OLAF's database.

For cases assessed under standard procedures, the decision to open or not to open a case is prepared by the *Investigations and Operations Executive Board*. The assessment period is calculated from the date of receipt of information to the point when the Board makes this decision. The recording of information which has been assessed under both simplified and standard procedures provides greater transparency of process and increased traceability of material. It has also contributed to the increased volume of registered information (as shown in figure 4). Nevertheless, since the result has been an improvement in the management of information OLAF resources have been more effectively targeted to allegations of a substantive nature.

Figure 3 demonstrates this effect. The figure displays the average length of standard assessments closed in each calendar year from 2001. The length of assessment falls consistently from 2001 to a low point of 3.5 months in 2004. The increase in 2005 was to be

<sup>3</sup> UCLAF was OLAF's predecessor up to 1999 (Anti Fraud Coordinating Unit in French acronym)



expected because from 2004, a greater proportion of information received was effectively excluded from this calculation by being determined as non case prima facie. This shows that resources are being better utilised to assess information in respect of which OLAF has a clear mandate.

*Figure 3: Duration of assessments excluding non case prima facie completed in each calendar year*

	2001	2002	2003	2004	2005
<b>Assessment completed</b>	763	656	629	503	531
<b>Average duration (months)</b>	18.9	10.6	7.6	3.5	5.3

Figure 4 shows that the increase in the assessment period has been accompanied by a parallel increase in the opening of case types specifically “owned” by OLAF, that is where other investigative bodies are not involved. This shows that the increased time taken to assess cases reflects an increase in the volume of assessment activity before the decision to open a case is taken. There was a 50% increase in the opening of the two such case types, namely external and internal investigation cases, in 2005. For co-ordination and criminal assistance cases the investigation is led by Member State authorities. Opening decisions in these two categories have fallen consistently over the 5 years shown below. Their decrease in 2005 reflected the increase in external and investigation decisions.

*Figure 4: Decision taken at the end of the assessment stage in each calendar year*

Type of decisions	2001	2002	2003	2004	2005
<b>Co-ordination cases</b>	138	107	86	82	34
<b>Criminal Assistance Case</b>	36	49	68	28	17
<b>External investigation cases</b>	190	158	127	86	124
<b>Gen. non-case</b>	155	178	261	255	274
<b>Internal investigation cases</b>	32	50	27	23	40
<b>Investigation cases created in IRENE</b>	251	78	19	0	0
<b>Monitoring case</b>	0	28	39	29	42
<b>Total</b>	<b>802</b>	<b>648</b>	<b>627</b>	<b>503</b>	<b>531</b>

The investigations created in IRENE refer to cases which had been classified in UCLAF's IRENE database. As in 2004, Direct Expenditure and External Aid cases represent a significant proportion of the new cases opened: 65 cases from 215 opened in 2005 (30%). This confirms the trend noted in last year's report, that OLAF's activities are moving towards areas in which Member States do not exercise specific responsibilities.

*Figure 5: Number of Direct Expenditure and External Aid cases opened*

Sector	2001	2002	2003	2004	2005
<b>Direct Expenditure</b>	40	39	23	23	27
<b>External aid</b>	80	95	56	30	38

This phenomenon is reaffirmed in Figure 6 which shows cases opened with Member States in sectors traditionally associated with co-operation case work. In 2005 the number of co-operation type cases opened in these areas (co-ordination cases and criminal assistance cases) has almost halved.

Figure 6: Co-operation cases with Member States in the field of Agriculture, Customs, Structural Funds and Trade by calendar year

Investigation type	2001	2002	2003	2004	2005	Total
Co-ordination cases	137	106	86	82	35	446
Criminal Assistance Case	22	27	40	14	10	113
Monitoring		14	15	21	25	75
<b>Total</b>	<b>159</b>	<b>147</b>	<b>141</b>	<b>117</b>	<b>70</b>	<b>634</b>
	60%	67%	69%	76%	57%	66%
External investigation cases	106	73	64	36	52	331
	40%	33%	31%	24%	43%	34%
<b>Grand Total</b>	<b>265</b>	<b>220</b>	<b>205</b>	<b>153</b>	<b>122</b>	<b>965</b>

Figure 7 shows that the average duration of the active stage of cases has remained consistent since 2003 (between 22 and 24 months).

Figure 7: Duration of active stage completed in each calendar year

	2001	2002	2003	2004	2005
Investigation completed	615	668	500	339	233
Average duration (months)	26	37	24	22	24

The statistics on duration for both assessments and active stages only include those stages **closed** in the reporting period. They do not include estimates for those stages which are ongoing at the end of the year.

Figure 8 shows the number of cases closed with and without a follow-up recommendation at the end of the investigation. The proportion of cases closed with follow-up has increased consistently in the last 5 years. 2005 is the first year in which more cases were closed with follow-up than without follow-up.

Figure 8: Cases closed with or without follow-up in each calendar year

Type of closure	2001	2002	2003	2004	2005
Follow-up	68	289	205	158	133
No Follow-up	629	381	288	181	100
<b>Total</b>	<b>697</b>	<b>670</b>	<b>493</b>	<b>339</b>	<b>233</b>

This is a positive development which demonstrates a proportional increase in substantive results from OLAF's operational and investigative work.

The result of a case may involve several types of follow-up activity: administrative, financial, legislative judicial or disciplinary follow-up. There can be more than one follow-up activity in respect of each case. Figure 9 demonstrates how many follow-up activities are related to the cases closed in each of the last 5 years. For instance, for the 133 cases closed with follow-up in 2005, 233 follow-up activities have been commenced.

Figure 9: Cases closed with Follow-up showing type(s) of follow-up opened

Type of closure		2001	2002	2003	2004	2005	Total
Cases Closed with Follow-Up		68	289	205	158	133	853
Related Activity	Follow-up						
	Administrative	10	29	29	43	43	154
	Disciplinary	3	12	5	6	7	33
	Financial	49	232	142	95	93	611
	Judicial	32	157	132	114	89	524
	Legislative		2	4	2	1	9
Total		94	432	312	260	233	1331

The vast majority of follow-up work (85%) concerns financial recovery and judicial activities. For monitoring cases a similar pattern of activity emerges as indicated in Figure 10. Monitoring cases, introduced in 2002, are those where OLAF would be competent to conduct an external investigation but where a member State or other authority is in a better position to do so. The cases are passed directly to the relevant authority for completion. No OLAF investigation resources are required. One or more OLAF follow-up units will monitor case progress.

Figure 10: Monitoring cases opened showing type(s) of follow-up opened

Type of closure		2001	2002	2003	2004	2005	Total
Monitoring cases		0	28	39	29	42	138
Related Follow-up Activity	Administrative		7	11	5	6	29
	Financial		16	19	8	18	61
	Judicial		11	22	21	28	82
	Legislative				1	1	2
Total		0	34	52	35	53	174

Follow-up is in most cases the responsibility of the relevant national authorities. Figure 11 shows the number of cases and respective follow-up activities completed in each year. In the last 2 years the number of cases where follow-up is completed has reached a consistent level. It is still however below the number of follow-up cases opened in each year.

Figure 11: Completion of Follow-up showing type(s) of follow-up closed

Type of closure		2001	2002	2003	2004	2005	Total
Cases with follow-up completed		0	11	22	85	84	202
Type of Follow-Up activity closed	Administrative		3	2	11	17	33
	Disciplinary					2	2
	Financial		8	18	58	61	145
	Judicial		4	7	34	34	79
	Legislative				2	1	3
Total Follow-Up Activities		0	15	27	105	115	262

Figure 12 accumulates the estimated financial impact of OLAF cases by sector and stage. 'Open' are those 452 cases in active investigation by OLAF staff. 'Closed' represents some 3,016 cases in follow-up, monitoring cases, closed without follow-up and where follow-up is completed (see Figure 3 for a further breakdown of the type of closures).

*Figure 12: Financial impact of Open and Closed OLAF cases at the end of 2005*

Sector	Open (€million)	Closed (€million)	Total (€million)
Agriculture	112.1	222.2	334.3
Alcohol	0.0	179.8	179.8
Cigarettes	344.6	972.3	1,316.9
Customs	216.9	503.1	720.0
Direct Expenditure	175.2	86.9	262.1
ESTAT <sup>*</sup>	102.9	3.1	106.0
External Aid	130.0	172.2	302.2
Internal Investigations	18.2	230.2	248.4
Multi Agency Investigations	0.0	3.7	3.7
Precursors	0.0	0.0	0.0
Structural Funds	390.2	1,144.9	1,535.1
Trade	0.0	934.7	934.7
VAT	435.1	242.9	678.0
<b>Total</b>	<b>1,925.2</b>	<b>4,696.0</b>	<b>6,621.2</b>

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\* See Paragraphe 2.2.1.- page 30

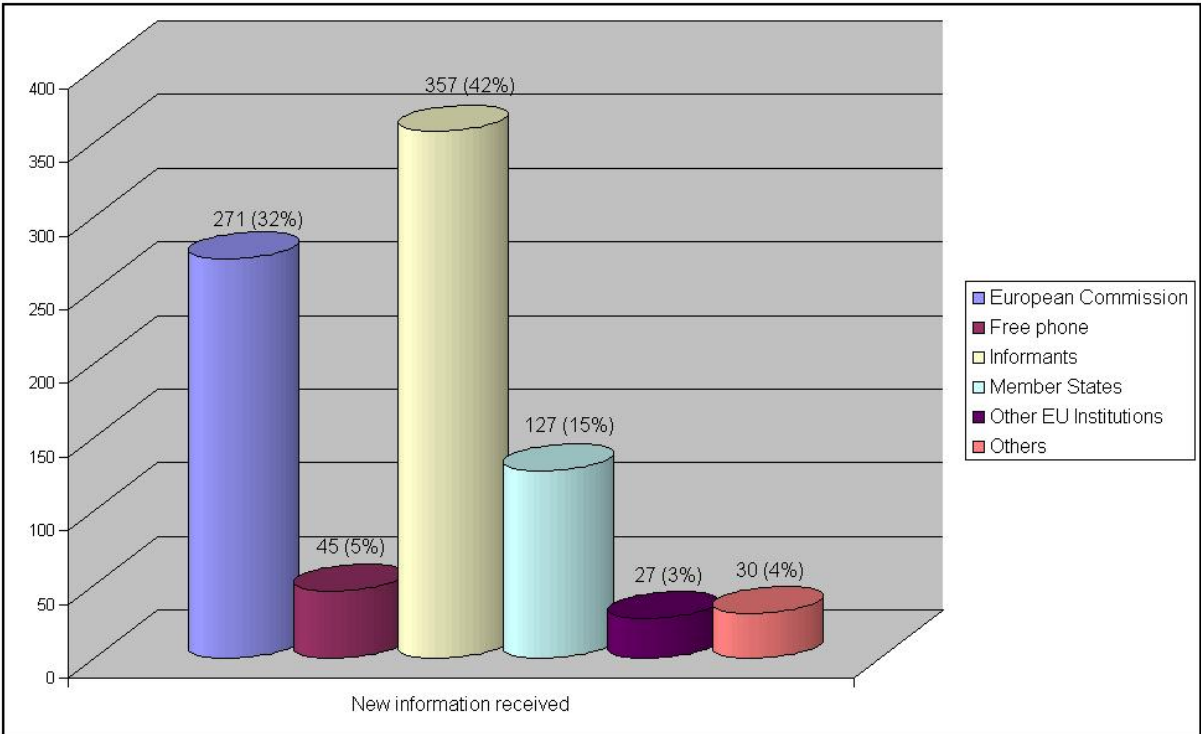
**2.2. Operational Activities in the Reporting Period**

During the reporting period OLAF received 857 new pieces of information. Standard assessments were commenced for 560 of these cases. The remainder were either treated under the simplified procedure as non cases prima facie or the information was found to relate to existing cases.

Each incoming piece of information is classified under a main information source heading and can be sub classified as necessary.

Figure 13 below shows the breakdown of the main sources of information relating to the new information received in 2005.

*Figure 13: Distribution of new information received by source*



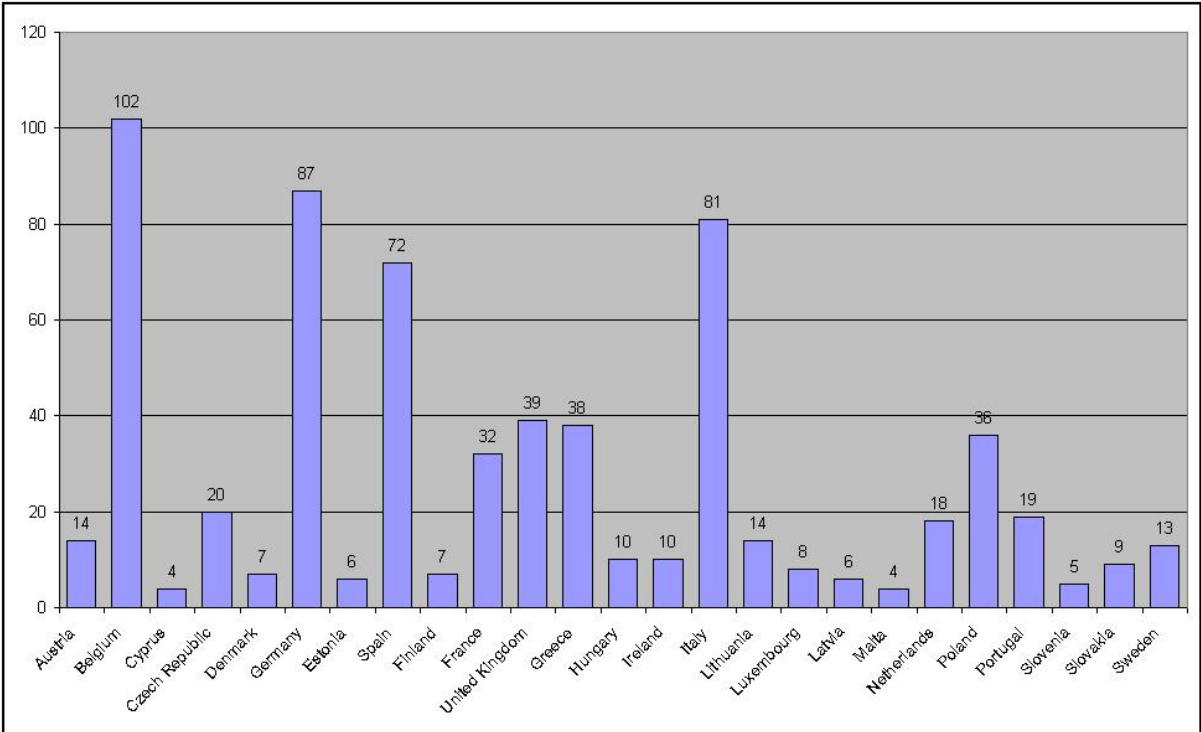
Whilst the volume of incoming information will have been augmented by the inclusion in the statistics of information treated under the simplified assessment procedure, 2005 has seen an increase in referrals from Commission staff and from informants. These are encouraging signs that the perception of the competence of the Office has improved both with official services and with the general public.

Informants are generally defined as being individuals who provide information concerning a matter within the legal competence of OLAF. This category is subdivided into witnesses; informants; anonymous, media and trade sources; and whistleblowers. A whistleblower is defined as a member of staff of a Community body who, in the course of or in connection with the performance of his or her duties becomes aware of facts which indicate either possible illegal activity falling under the competence of OLAF or serious failure by an official to comply with his or her professional obligations, and who then reports these facts to OLAF. It is a report directly from the individual rather than a report submitted through his or her hierarchy.

At the end of 2005, OLAF had five active cases where the primary source of information was a whistleblower with two further cases in follow-up and one monitoring case.

2005 was the first complete year following the enlargement of the Union. The geographical spread of new case records is shown in Figure 14.

Figure 14: Distribution of new case records created in 2005 by Member State



Note that in the database one case record may relate to more than one country and that the above figures indicate each occurrence of a country. A proportionally higher occurrence of Belgium and Luxembourg is to be expected given that they are seats of European institutions.

Despite the fact that both these sets of figures have risen since 2004, the overall picture is consistent with an increase in the level of registered new information.

Figure 15 shows the same details for the two acceding states, Bulgaria and Romania, and the three candidate countries: Turkey, Croatia and the Former Yugoslav Republic of Macedonia.

*Figure 15: Distribution of new case records created in 2005 by Accession or Candidate Country*

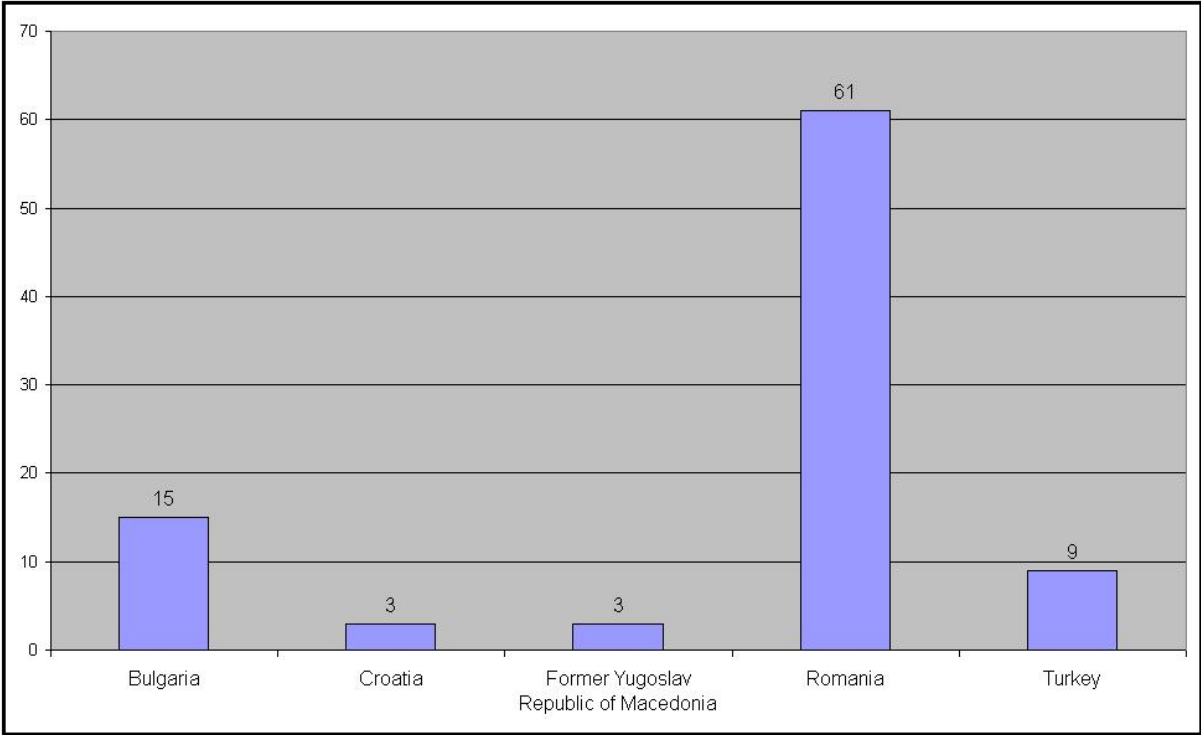


Figure 16 shows the distribution of new information in relation to activities in third countries. The pattern is similar to that in previous years.

Figure 16: Distribution of new information received concerning 3<sup>rd</sup> countries by geographical region

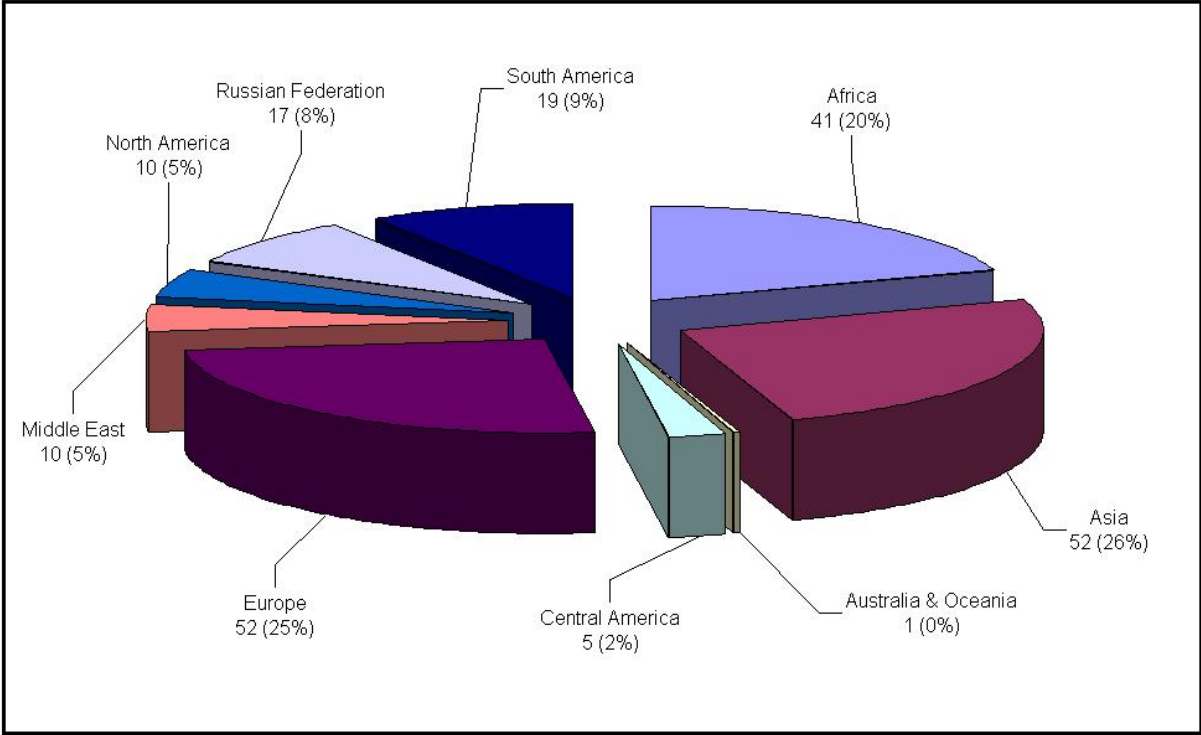


Figure 17 analyses the new information received by OLAF in 2005 by OLAF sector. The major change in relation to 2004 is a substantial increase in information registered in the internal investigations sector (120 in 2004 compared with 247 in 2005). However this must be considered in the context of the registration of items treated under simplified procedure as non case prima facie. Many of the latter communications concern tenuous allegations against individuals and bodies outside OLAF’s jurisdiction. 140 were treated as non cases prima facie under the internal investigations heading.



Figure 17: New Information received in 2005 by OLAF Sector

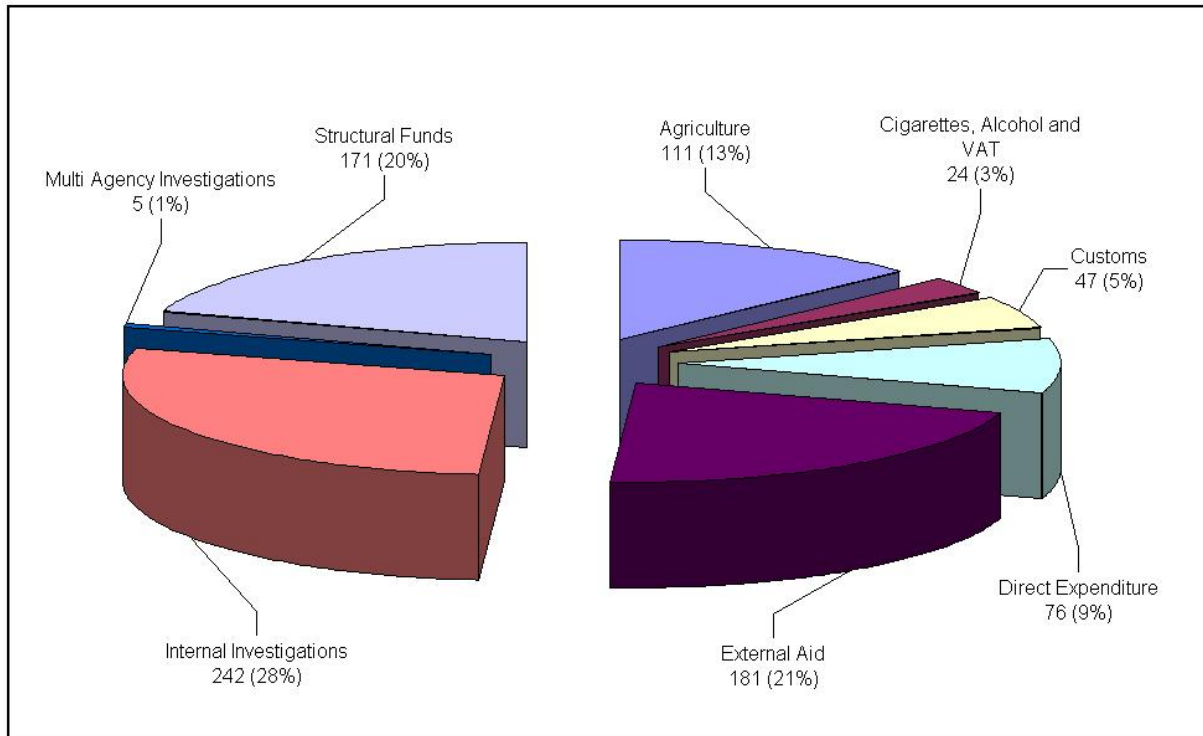
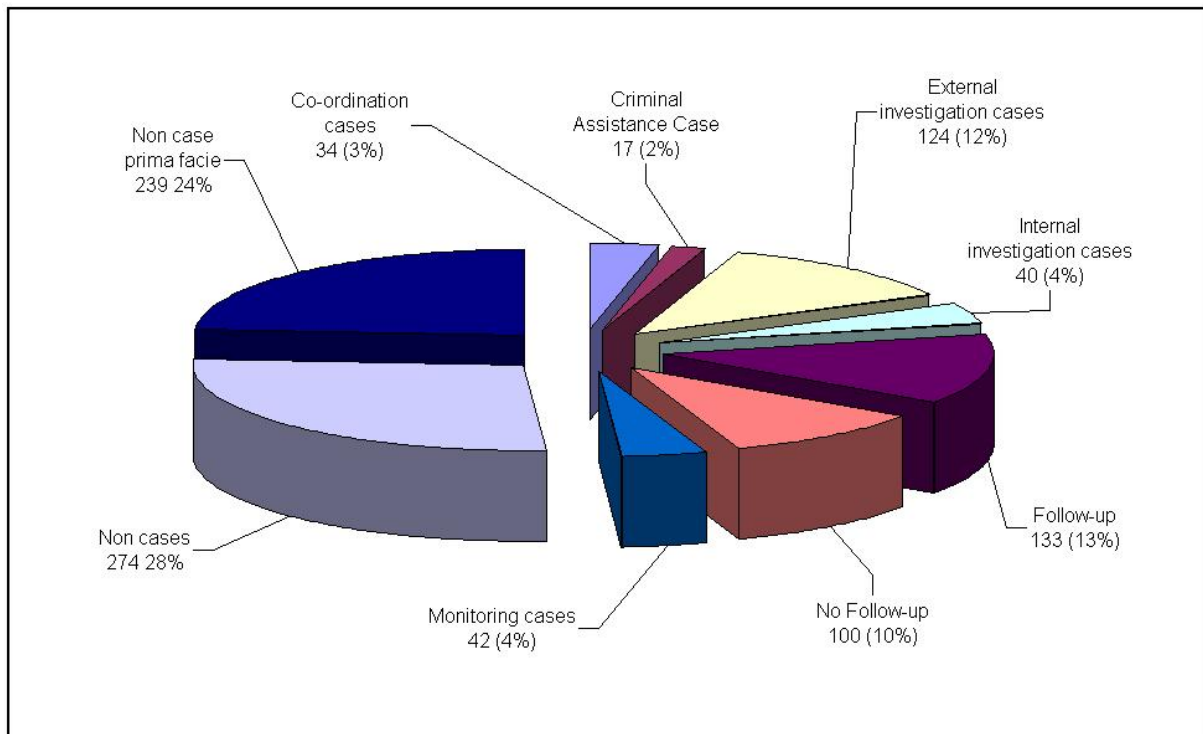


Figure 18 shows a breakdown of the number of opening and closure decisions taken in relation to OLAF records in 2005.

Figure 18: Decisions taken during 2005



Figures 19 and 20 provide more detail on the opening and closure decisions taken in 2005 by OLAF sector. The total number of opening decisions is little changed from the figure in 2004 (219). However as noted earlier there is a distinct shift in new OLAF casework from co-ordination and assistance work to “OLAF owned” investigations. This is driven by three factors: a reduction in the number of cases opened in the agriculture sector (64 in 2004); an increase in those opened in internal investigations (20 in 2004); and a change in the types of cases opened in the structural funds sector (only 11 external investigations were opened in 2004 as compared to 24 in 2005).

*Figure 19: Opening Decisions taken in 2005 by Sector and type of decision*

Major sectors	Co-ordination cases	Criminal Assistance Case	External investigation cases	Internal investigation cases	Total	Monitoring	Non Cases
Agriculture	16	0	19	0	35	6	39
Cigarettes	3	1	0	0	4	0	2
Customs	12	0	10	0	22	2	14
Direct Expenditure	0	4	23	0	27	2	41
ESTAT*	0	0	8	6	14	0	15
External Aid	0	2	36	0	38	12	48
Internal Investigations	0	1	1	34	36	2	28
Multi Agency	0	0	3	0	3	1	2
Precursors	0	0	0	0	0	0	4
Structural Funds	1	6	24	0	31	17	74
VAT	2	3	0	0	5	0	7
<b>Grand Total</b>	<b>34</b>	<b>17</b>	<b>124</b>	<b>40</b>	<b>215</b>	<b>42</b>	<b>274</b>

Non case decisions under standard assessment procedure show a marginal increase of 7% (255 in 2004)

\* See Paragraphe 2.2.1.- page 30

Figure 20 shows in detail that 2005 is the first year in which more cases have been closed with follow-up recommendations than without.

Figure 20: Cases closed in 2005 by Sector

Major sectors	Follow-up	No follow-up	Total
Agriculture	25	19	44
Alcohol	0	1	1
Cigarettes	7	7	14
Customs	15	10	25
Direct Expenditure	16	8	24
ESTAT*	4	6	10
External Aid	25	13	38
Internal Investigations	9	17	26
Multi Agency Investigations	2	1	3
Precursors	0	7	7
Structural Funds	22	8	30
Trade	3	0	3
VAT	5	3	8
<b>Total</b>	<b>133</b>	<b>100</b>	<b>233</b>

Figure 21 provides an overview of the active operational and investigation cases at the end of 2005. It includes a breakdown of cases in standard assessment by OLAF sector. More than 60% of active cases are OLAF owned types (286 internal and external cases from 452 in total).

Figure 21: Active cases by type and cases in evaluation at the end of 2005

Major sectors	Co-ordination cases	Criminal Assistance Case	External investigation cases	Internal investigation cases	Total	Evaluation
Agriculture	50	2	34	0	86	22
Cigarettes	24	6	3	0	33	1
Customs	33	0	36	0	69	16
Direct Expenditure	0	6	41	0	47	19
ESTAT*	0	0	13	10	23	10
External Aid	0	5	63	0	68	65
Internal Investigations	0	5	0	53	58	30
Multi Agency Investigations	0	1	4	0	5	1
Precursors	0	0	0	0	0	4
Structural Funds	3	12	29	0	44	56
VAT	11	8	0	0	19	2
<b>Grand Total</b>	<b>121</b>	<b>45</b>	<b>223</b>	<b>63</b>	<b>452</b>	<b>226</b>

Figure 22 (see overleaf) provides a snapshot of all active cases at the end of 2005 showing the instances where Member States and Acceding/Candidate Countries are involved). More than one country is possible per case record. The figures indicate each occurrence of a country.

\* See Paragraphe 2.2.1.- page 30

Figure 22: Active cases at the end of 2005 by Member State and Candidate Country

Status of Country	Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	ESTAT	External Aid	Internal Investigations	Structural Funds	VAT	Total
Member State	Austria	2	1	2	1		1			4	11
	Belgium	3	13	4	6	4		30	4	7	71
	Cyprus		9								9
	Czech Republic	1	2			1	4				8
	Denmark	1	1	4						5	11
	Germany	8	11	20	11			1	4	11	66
	Estonia	2	2								4
	Spain	11	3	7	6			2	8	5	42
	Finland	1	1	2							4
	France	7	4	6	2		3	2	4	3	31
	United Kingdom	5	8	8	3		2	3	1	7	37
	Greece	11	4	3	3	3			6	1	31
	Hungary	2		1	3					1	7
	Ireland	3	2	2							7
	Italy	12	6	8	4		8	4	16	13	71
	Lithuania	2	1	1							4
	Luxembourg	1		3		2		2		1	9
	Latvia	1	3								4
	Malta				1					1	2
	Netherlands	10	6	9	2				1	7	35
Poland	2	3	1	1		2				9	
Portugal	6		1	1		1		2	1	12	
Slovenia	1	4	1	1		1		1		9	
Slovakia	1	1	1			2			1	6	
Sweden		4	2	1					4	11	
	<i>Net Total</i>	<b>93</b>	<b>89</b>	<b>86</b>	<b>46</b>	<b>10</b>	<b>24</b>	<b>44</b>	<b>47</b>	<b>72</b>	<b>511</b>
Candidate Country	Bulgaria	2	4	2	1	1	1				11
	Croatia		2				1				3
	FYROM	2	4			1					7
	Romania	2	2			1	8				13
	Turkey	3		2			1				6
		<i>Net Total</i>	<b>9</b>	<b>12</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>

### **2.2.1. The “Eurostat” team**

OLAF has been working on cases in relation with EUROSTAT since 2000. However, the so-called “Eurostat affair” first became a matter of public and political debate during the year 2003. On 24 September 2003 OLAF closed four cases related to Eurostat. On the following day, the then president of the European Commission, Romano Prodi, addressed the Presidents of the political groups in the European Parliament on this subject. Another five cases were closed during the year 2004 and a further five during the year 2005.

Two of the cases closed in 2005 involved internal enquiries. These did not discover any further illicit financial reserve of the kind identified in certain earlier investigations. However, the investigation found that between the years 1994 and 1999, one unit within Eurostat had administered contracts in a way which did not respect the then Financial Regulation. OLAF recommended the Commission to consider disciplinary action.

In addition, one external case was opened following the identification of numerous irregularities in management of Eurostat money. OLAF had identified a certain number of facts indicating possible breaches of criminal law relating to an organisation which had received grants from Eurostat. This case was transmitted to the judicial authorities of the relevant Member State (Portugal). The national judicial procedure is still continuing.

The closure of cases in 2005 therefore signifies the end of the period during which substantial OLAF resources were devoted to the investigation of the “Eurostat affair”. (For technical reasons it was not possible during 2005 to change the title of the relevant unit to reflect the decline in Eurostat-related work.)

The main continuing action is now in the hands of the judicial authorities in Luxembourg, in France and in Portugal.

During the year 2005, OLAF opened one new external case relating to the attribution of three PHARE contracts to an external contractor of Eurostat based in Luxembourg.

In 2004, the OLAF unit dedicated to Eurostat investigations also assumed responsibility for investigations relating to the Publications Office. Two cases were closed during 2005. One of these cases was the subject of disciplinary follow-up.

In 2005, the team’s remit was broadened to include casework on European agencies. This team opened 23 full cases and commenced 11 evaluations during 2005.

## 2.2.2. Internal Investigations

At the end of 2005, internal investigations totalled 58 open cases and 30 cases in evaluation.

In general terms, the quality of the initial information received in internal matters has improved, in particular the degree of detail and the completeness of supporting documents. Co-operation with the Institutions has improved significantly. Information is received and exchanged faster and more efficiently.

There appears to be an increase in allegations of irregularities and corrupt practices in delegations and other bodies away from the seats of the Institutions. This development is in line with OLAF's own risk assessment.

Figure 23 indicates the Institution involved in all internal cases where this is appropriate. As the European Commission manages by far the greatest part of the EC Budget, it is to be expected that it appears most frequently in the statistics. It should be noted that internal investigations may involve more than one Institution.

*Figure 23: EU Institutions involved in internal investigations at the end of 2005*

EU Institution	Evaluations	Active cases	Total
Committee of the Regions	1	1	2
Council	0	4	4
Court of Auditors	0	1	1
Economic and Social Committee	1	0	1
EU Agencies	2	12	14
European Commission	27	61	88
European Court of Justice	1	0	1
European Investment Bank	2	6	8
European Parliament	4	3	7
<b>Total</b>	<b>38</b>	<b>88</b>	<b>126</b>

*Case study: Conflict of interest in a research contract*

The Commission informed OLAF of an allegation that a former temporary agent, who had acted as coordinator within the Commission of a number of projects, might have had undisclosed connections with, and shown favour to, two companies which were contracted to carry out these projects. There was also a doubt about the accuracy of personal information which the agent had provided to the Commission before his recruitment. OLAF therefore opened both an internal investigation into the conduct of the agent and an external investigation into that of the companies concerned. OLAF directed its investigation towards four particular projects.

OLAF carried out a mission to the service concerned and conducted a number of interviews. At OLAF's request, the service engaged an independent expert to review some of the technical aspects of the relevant contracts and the scientific reasons given for the selection of particular companies to carry out the contracts. The expert produced two reports, which provided the basis for some of the questions put by OLAF to the agent at interview.

The evidence uncovered by OLAF indicated that the agent did have a conflict of interest in relation to the projects concerned, and indeed that his wife was regularly employed by one of them to draft project reports and computerise data. OLAF also found evidence that the agent had helped draw up tender specifications and draft contracts and had managed projects in a way which favoured the relevant companies. In addition OLAF found that the agent had made numerous false declarations to the Commission. In particular the agent had failed to disclose to the Commission that he had left his previous employer after the discovery of his links with the secret police of a former communist European state.

On completion of its investigation OLAF recommended that the Commission conduct a disciplinary inquiry into the agent's conduct, requested that the Commission take steps to recover amounts paid to the companies concerned and proposed improvements to the Commission's recruitment procedures.

*Case study: Embezzlement of funds in an EC Delegation*

DG External Relations of the European Commission informed OLAF of financial irregularities within one of the Commission's delegations in Africa. A sample control of the delegation's accountancy had suggested the possibility that a staff member could have embezzled considerable amounts of money from the delegation's imprest accounts.

The OLAF investigation, carried out largely on the premises of the delegation, involved an in-depth analysis of financial movements and numerous interviews.

The investigation revealed that a local agent, employed in the accounting department of the delegation, had systematically falsified the signatures of duly authorised delegation staff on several cheques, payment orders and other accounting documents. In this way, the local agent diverted some €300,000 through budget lines which he administered to his own bank account.

The results of the investigation have been referred to the competent judicial authorities.

*Case study: Excessive Parliamentary allowances received by a Member of the European Parliament*

Staff of the European Parliament alleged that a former MEP had claimed a higher secretarial allowance than his entitlement, by reporting to the Parliament that he was paying a higher salary to his assistant than was actually the case, and by continuing to claim the allowance after the assistant had left his service.

The OLAF investigation, – including an analysis of the documentation and a series of interviews - concluded that the MEP had obtained the maximum amount of the secretarial assistance allowance on the basis of incorrect information to the EP administration.

The place of residence thus enabled the MEP's travel expenses to be higher than they should have been by some €45,000.

OLAF referred the matter to the judicial authorities of the MEP's home country, and sent its report to the Parliament to allow it to calculate the amount to be recovered from the MEP. The follow-up continues.



*Case study: False documents used to obtain employment with the European Commission*

An anonymous accusation of involvement in a criminal activity with implications for the EC Budget was made against a temporary agent of the European Commission. OLAF opened both a 'criminal assistance' case (assisting the investigation of a Member State judicial authority) and an internal investigation.

As the allegations concerning criminal activity could not be substantiated, the judicial investigation was closed and so consequently was OLAF's criminal assistance case.

However, OLAF's internal investigation revealed that the agent appeared to have provided false documentary evidence of his education and professional experience to the Commission in support of several applications he had made for employment. In addition, the agent was found during his period of employment to have carried out commercial activities which he had failed to disclose to the Commission.

On the completion of the investigation, the file was transferred to the relevant Member State judicial authorities, to enable them to consider a possible criminal investigation into the agent's use of falsified documents.

The matter was also referred to the Commission, to which OLAF made a number of recommendations. These were that the Commission examine the possibility of financial recovery in this case, that it consider the possibility of drawing up a 'persona-non-grata' list of persons not to be offered further employment and that it require in future that original documents be submitted in support of applications for positions.

### 2.2.3. Enlargement Investigation and Operational Activities

2005 was the first full year of an enlarged Union of 25 Member States. Figure 24 shows new cases opened in 2005 in respect of new Member States and accession and candidate countries. As noted in OLAF's last full year report, external aid infringements represent a significant proportion of work in the accession countries. OLAF's efforts in this field have been strengthened by the posting of OLAF liaison officers to Bucharest and Sofia. They work closely with the respective national anti-fraud coordination offices (AFCOS<sup>4</sup>) and with the relevant judicial authorities.

Figure 24: Cases opened in 2005 concerning new Member State, Accession and Candidate Countries and by OLAF sector

Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	ESTAT	External Aid	Structural Funds	VAT	Total
Bulgaria	1	1	1		1	2			6
Cyprus		2							2
Czech Republic	1	1				1			3
Estonia	1								1
Croatia									0
Hungary				2				1	3
Lithuania	3		1						4
Latvia	1								1
FYRO Macedonia		1							1
Malta				1				1	2
Poland	2	1		1		1			5
Romania	2	1		2	1	7			13
Slovenia				1		1	1		3
Slovakia									0
Turkey	2					1			3
<b>Total</b>	<b>13</b>	<b>7</b>	<b>2</b>	<b>7</b>	<b>2</b>	<b>13</b>	<b>1</b>	<b>2</b>	<b>47</b>

### 2.2.4. Direct expenditure and external aid

Figure 25 shows new information received in the external aid sector by country and by the programme affected. The data includes candidate and accession countries as well as some of the new Member States. OLAF is still receiving irregularity notifications relating to pre-accession funding from the most recent enlargement of the Union.

Figure 25: New External Aid case information created in 2005 from the relevant programme by new Member State, Accession and Candidate countries

Program	BG	CY	CZ	EE	FYROM	HU	HR	LV	LT	MT	PL	RO	SI	SK	TR	Total
CARDS 2001							1									1
DA VINCI												4				4
ISPA													1			1
PHARE	1		3					1	1			6				12
RICOP												1				1
TEMPUS															1	1
Unspecified	5		7	3		2		1	1		12	33	1	1	3	69
<b>Total</b>	<b>6</b>	<b>0</b>	<b>10</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>12</b>	<b>44</b>	<b>2</b>	<b>1</b>	<b>4</b>	<b>89</b>

<sup>4</sup> AFCOS stands for Anti-Fraud Co-ordinating Structure in Accession and Candidate countries

Figure 26 shows new external aid cases for third countries by geographical region. Africa remains the most significant region of interest for OLAF casework, although the figures show a fairly even global divide.

Figure 26: New information received in respect of External Aid case in 2005 by geographical region

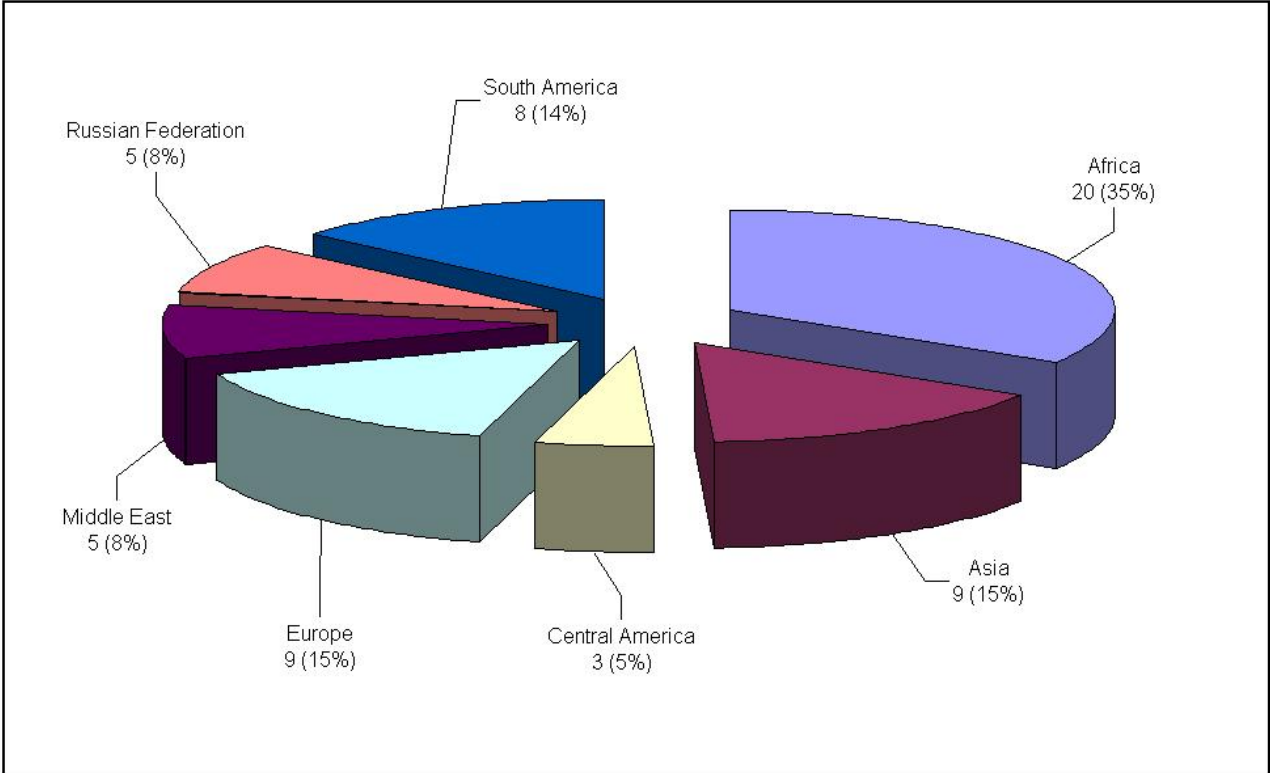
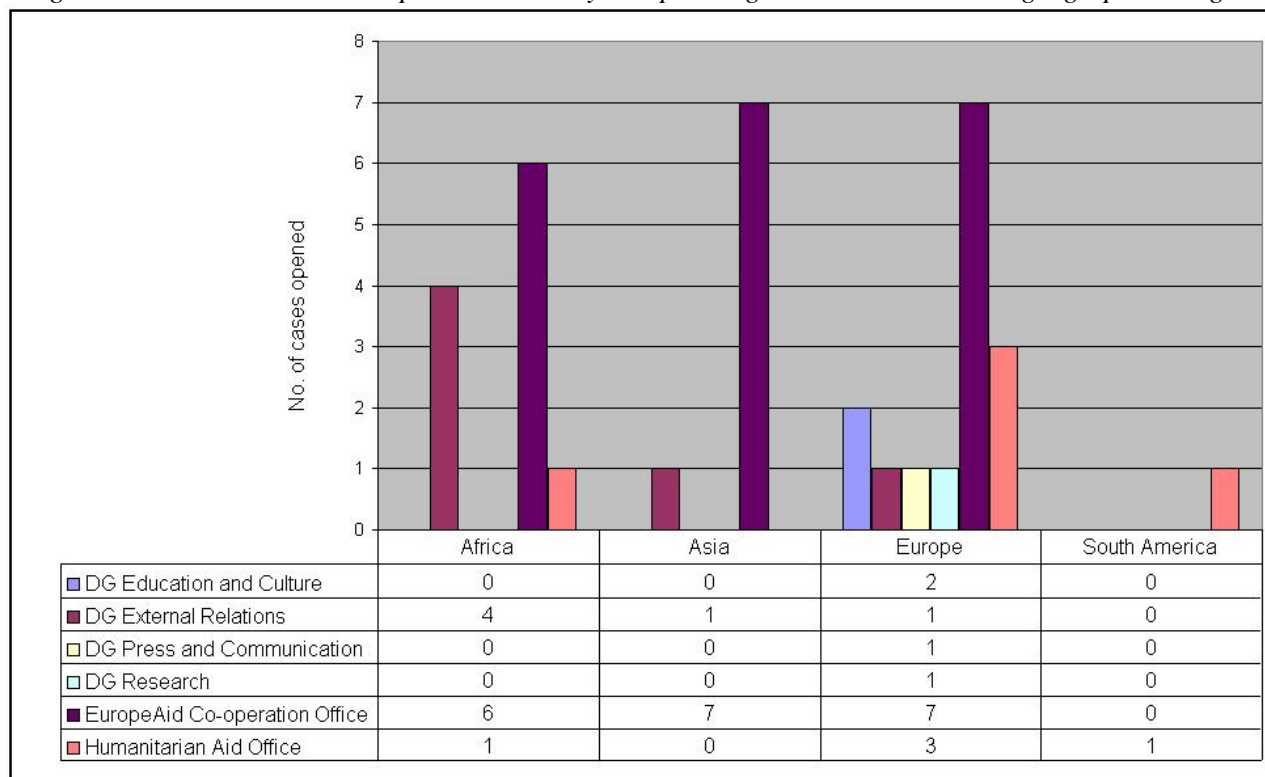


Figure 27 shows OLAF cases where an investigation was opened in 2005 by region and by the Commission Directorate-General with which the Office co-operated. The Europe-Aid Co-operation Office remains OLAF's most significant partner in this respect.

Figure 27: External Aid cases opened in 2005 by co-operating Commission DG and geographical region



#### Case study: Forged time-sheets

In January 2004, a Directorate General briefed OLAF about allegations it had received from an informant. Those allegations concerned a company involved in a consortium participating in a project worth €2.8 million of which the Commission would finance up to 50%. The company was unable to provide supporting documentation for the costs it claimed of about €230, 000.

The informant was an employee of the company in question and so was able to confirm most of the relevant information.

By conducting interviews and analysing documentation, the OLAF investigation showed that the time sheets had not been created on a genuine monthly basis. The company had first calculated the actual costs, added a small profit margin, and then forged invoices to cover the costs plus a profit margin.

Ultimately, the investigation proved that:

- The stated costs were higher than the actual costs,
- Some of the time sheets had been forged,
- Persons who had certified that the stated costs were eligible were aware that these statements were not correct,
- The former and current financial directors of the company had asked employees to forge missing time sheets to cover the days stated as worked,
- The current management of the company, although not in office when the irregularities had occurred, had become aware of the irregularities but had not informed the Commission about them. On the contrary, they had subsequently attempted to conceal the situation from OLAF.

OLAF forwarded this case to the national judicial authorities for prosecution and recommended the Commission to recover nearly €195,000.

*Case study: EAC projects in Romania*

The Commission's Directorate General for Education and Culture (EAC) carries out its activities in Romania by means of four programmes: Socrates, Leonardo da Vinci, Youth and Culture.

On the basis of an OLAF risk analysis, EAC and OLAF jointly decided to examine in detail the activities subsidised in Romania under those programmes.

Following this examination, in which EAC was closely involved, certain projects raised serious suspicions of fraud. All these projects concerned training for groups of Romanian individuals in EU Member States. OLAF opened six investigations.

The investigations revealed a common procedure. Fraudsters took advantage of the distance between the location where the funded actions were carried out (somewhere in a Member State) and the location where the supporting documents were submitted to the Implementing Agency for funding (Bucharest).

For example, seven people received four days training in a Member State, paying a sum to the "welcoming partner" in this Member State for lodging, meals and training. At the end of the training the partner delivered training certificates as well as invoices for lodging, meals and training. According to the documents presented to the Romanian Agency for funding, ten people had received two weeks training. In reality, the documents presented were fake invoices and the amount shown as paid was ten times the amount actually paid.

In the course of the investigation of these frauds, OLAF relied on close cooperation with the Romanian AFCOS (Anti-Fraud Coordination Service). In each case OLAF investigators carried out all the investigative activity in the relevant Member States. Once they had collected evidence of fraud, they informed the Romanian AFCOS who then performed the investigations in Romania, passing the information on to the Romanian judicial authorities where appropriate.

The investigation put an end to a specific and repeated scheme of fraud, the total amount of which was significant even if the money defrauded in each of the cases may seem small. The overall financial impact of these frauds was €192,200.

## **External Aid**

The European Union is one of the most significant providers of development and humanitarian aid. Working in partnership with other Commission services, notably the Europe Aid Cooperation Office (AIDCO) and the European Community Humanitarian Aid Department (ECHO), and with other international partners, OLAF plays a crucial role in preventing and detecting fraud against international aid and development funds.

A number of positive developments in anti-fraud work within the external aid sector were seen in 2005. First, cooperation and the exchange of information with some Member States have improved. This was accompanied by better cooperation with other international donors (such as UN agencies) and a better use of audit resources under framework contracts. This could not have been achieved without mutual trust and understanding between the Member States, the European Commission, third-countries and international institutions.

During the reporting period, OLAF investigated several sizeable non-governmental organisations (NGOs). The various organisations, including NGOs, with which OLAF investigators work across the globe, operate under very diverse systems and cultures. The distribution and administration of European funds are often influenced by internal political developments and by the different management cultures of a specific country. OLAF investigators need to be sensitive to these considerations.

*Case study: Non-Governmental Organisation active in the development area*

In June 2003, OLAF was informed that an NGO was manipulating the tender procedures launched in the framework of development and humanitarian projects financed by the European Commission. Four months later, OLAF communicated the first results of the investigation to AIDCO and ECHO. These results indicated that although tender procedures had apparently been correctly launched by the NGO, the purchases of goods were concentrated on certain firms which benefited from an unduly privileged relationship.

In June 2005, with the agreement of the relevant national judicial authorities, OLAF launched an on-the-spot control on the headquarters of the NGO. OLAF was assisted by external experts appointed by AIDCO and ECHO. These external experts were employees of private sector audit firms with specific experience in controlling ECHO and AIDCO projects. They participated as an outside body called to provide technical assistance to the OLAF investigation, as provided under Article 6(2) of Regulation No 2185/96.

The purpose of the inspection was to identify any irregularities in the implementation of NGO projects financed by the European Commission, mainly with reference to the procedures followed by the NGO in the acquisition of goods. Special attention was paid to business relations between the NGO and the commercial firms mentioned above.

The main results of the on-the-spot control and the analysis of different contracts funded by the European Commission showed that there was clear evidence of irregularity and frauds, including:

- Ad hoc offers prepared in such a way as to enable contracts to be awarded to a specific company;
- Conflict of interest between the companies taking part in the tendering process;
- Failure to adhere to the thresholds specified by the simplified tender procedure (which allows for a minimum of three offers);
- Business agreements were binding the participants in the awards procedures in such a way that it was impossible to determine the contract price correctly or to justify the selection of the successful company;
- Failure to declare to the European Commission the real salary paid to staff working on projects funded by the European Commission;
- Over invoicing of goods financed by European Commission projects;
- Conflict of interests between the company in charge of the internal control of the NGO and the commercial firms.

OLAF investigators have encountered typical modus operandi which illustrate the nature and character of organised fraud in the sector of external development and humanitarian aid.

Some of the biggest problems that make such fraud possible are shortcomings in coordination between the different global and international donor organisations. Such shortcomings affect the allocation of grant aid, auditing, monitoring, evaluation and the operation of warning systems. The

abundance of different projects, programmes, NGOs, organisations and foundations, combined with the fact that many of these function in different legal environments and financial systems, makes coordinating and supervising the donation and expenditure of the funds a challenging task.

The forum in which the problem of better cooperation is discussed is the Conference of International Investigators. All the main donor organisations, the World Bank, the IMF, the UN and others as well as the Commission are represented by their internal investigative bodies (in the Commission's case, by OLAF). This forum has created and endorsed international standards for investigation which have become the basis of investigative procedures for most of the international organisations. This standardisation is a first but crucial step towards increasing the exchange of information. The next step will be the creation of the Interpol Anti-Corruption Academy which will provide training for investigators in anti-corruption techniques. OLAF strongly supports both initiatives.

OLAF also strongly supports the proposal made by seven Member States calling for the creation of a European Anti-Corruption Network. This network would serve as a platform for anti-corruption agencies and bodies and would facilitate the exchange of operational experiences.

Moreover, many organisations legitimately look for multiple sources of financing in order to implement their projects. Unfortunately, there is no general information or verification infrastructure which could prevent different donor organisations from over-funding the same activity.

There are instances where, after the project money has been spent, the projects are only partly delivered or not delivered at all but false invoices are presented to justify the expenditure. OLAF investigators also encountered a number of cases where the fraud was committed during the procurement process. The main features of this kind of fraud involve manipulation or faking of tendering procedures, and the unjustified use of restricted tenders instead of open tenders.

OLAF investigators encounter various problems in their daily investigative work in the aid sector. These mainly concern the exchange of evidence, communication and cooperation. They have not only caused technical and organisational problems but have adversely influenced the duration and efficiency of investigations. OLAF's cooperation with a number of bodies, particularly national authorities, parts of the European Commission and the departments of the international donor organisations responsible for spending money on aid projects, would benefit from further development.

These considerations have prompted OLAF to organise international conferences to discuss the main issues. During the second such conference on "Fraud and Aid Funds" in Brussels on 5-7 October 2005 the potential for a dramatic reduction in fraud against aid funds through better cooperation and information exchange between the main donors was confirmed. The principal partners of OLAF in this work, apart from AIDCO, ECHO and the delegations of the European Commission to relevant third countries, are investigative and judicial authorities, law enforcement agencies, international organisations and audit firms. OLAF will continue this dialogue with its international partners in order to raise awareness of the issues within the European Commission and to draw attention to OLAF's own role within the EU's institutional framework in the fight against aid fraud.

*Case Study: Drinking water project in a South American country*

Following an internal audit in December 2003, the Delegation of the European Commission concluded that there were serious irregularities within a project intended to construct some 20 wells for drinking water in rural areas in a South American country. The co-directors of the project had authorised payments of €2.3 million from project funds to a private foundation, with no involvement in the project. The total budget for the project was €7 million. The programme management unit consisted of a European co-director, who delegated his functions to a local NGO, and his counterpart in South America selected by the national Technical Secretariat of Planning.

Although the beneficiary of the misused project funds was the private foundation, the cheques signed by the co-directors were not made out to the foundation but to the bearer, in violation of the internal regulations of the project. These cheques were deposited in several bank accounts and the money was promptly transferred into the European bank accounts of family members of the European co-director. The mechanism of the diversion indicated that the foundation was a cover organisation. Furthermore, during the on-the-spot control the investigators found that there were irregularities relating to the construction of the wells. It appeared that an NGO managed by the European co-director was the real beneficiary of the entire action.

OLAF concluded that:

- The tender procedure relating to the construction of the wells was in the hands of co-directors of the projects and of the technical coordinator, who manipulated the entire process to the advantage of their NGO;
- The architects who apparently won the tender acted as middle-men and received a commission for participating in the tender in such a way as to make it appear in line with procurement rules;
- The members of the programme management unit (the national co-director, the European co-director and technical coordinator) were responsible for fixing the entire tendering process, including the documents of the evaluation committee, the statements of impartiality and the documents relating to the selection of the winning bidders.

This matter involved two fraudulent actions:

- the misappropriation of more than €2.3 million;
- a fraudulent tender procedure relating to the construction of nine wells with an estimated financial impact of €0.5 million.

There are currently two national criminal judicial investigations in progress. OLAF investigators have made oral statements to the national court in the South American country.



OLAF is also keen to present and promote its activities in various regions across the world in order to show that cooperation and mutual assistance can also be beneficial to the investigations conducted by national authorities.

Furthermore, most investigations must be pursued in close cooperation with the investigative services of the EU Member States and of countries which benefit from European aid. It is also essential that other partner services and international organisations dedicated to anti-fraud investigations are involved. Cooperation between prosecutors, police officers, investigators and other anti-fraud services is necessary; indeed the degree to which this is present or absent is a determining factor in the final outcome of most investigations. Weaknesses in exchange of data, intelligence and evidence need to be identified and solutions found.

In addition, cooperation with auditors is also essential to the success of investigations. The support, knowledge and experience of the auditors are often indispensable and always provide a solid backing to OLAF investigators. This aspect of cooperation is especially vital because once evidence gathered by OLAF proves to be valid, a fully-fledged forensic audit is generally required.

Many beneficiaries have experience of audit and of the financial aspects of the management of aid. That is why information obtained may appear on first examination to be satisfactory and may require in depth examination from OLAF investigators before the underlying fraud is detected.

### **2.2.5. Structural actions**

The responsibility for managing the Structural Funds lies in the first place with the Member States.

Structural Funds management remains rather complex. The control system is based on the principle that the Member State is generally responsible for controlling and correcting irregularities. When allegations of serious irregularities or fraud are brought to OLAF's knowledge, the Office may, after careful assessment, decide to intervene. It is always necessary to contact the competent national authorities to confirm whether EU funds are involved and to ensure that similar checks and inspections are not being carried out at the same time on the economic operators concerned. This exchange of information has substantial implications for the length of OLAF's investigations.

OLAF's results in the Structural Funds sector are obtained with the assistance of effective legal powers (on-the-spot controls under Regulation 2185/96). The results also reflect close cooperation with Member States' authorities and coordination with the relevant Commission Services.

Cross-checks performed under Regulation 2185/96 on other, related, economic operators have proved an essential tool in detecting fraud. They uncovered information indicating organised fraud and agreements between operators to defraud both European and national budgets.

During 2005, OLAF completed the standard evaluation of 122 allegations relating to Structural Fund actions. On the basis of these evaluations, 31 new OLAF cases were opened, 17 cases were referred to Member States authorities as monitoring cases and 74 allegations were closed as non cases. 58% of the 48 items pursued relate to the European Social Fund (ESF), 25% to the European Regional Development Fund (ERDF) and 13 % to the Guidance Funds for Agriculture and for Fish (EAGGF, FIGF). The remaining fraction relates to Cohesion or other structural funds.

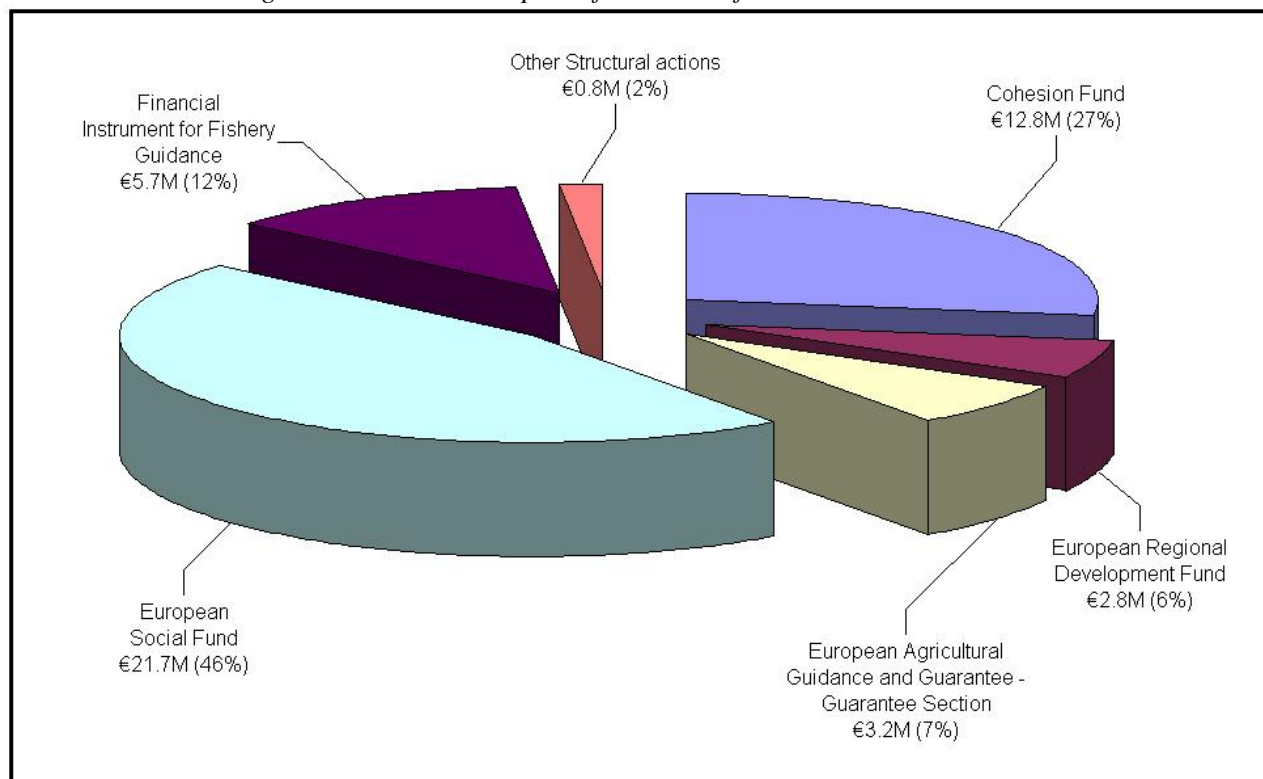
30 cases were closed after the completion of an OLAF investigation with 22 requiring follow-up activity. Figure 33 shows the breakdown of these closures by Member State involved. As more than one Member State can be involved in a particular case, the total exceeds 30.

*Figure 28: Structural funds cases closed in 2005 by fund and countries involved*

Program	ERDF	EAGGF	ESF	FIFG	Total
Austria			1		1
Belgium			1		1
Cyprus					0
Czech Republic					0
Denmark					0
Germany	1	1	2		4
Estonia					0
Spain	1	3	4	1	9
Finland					0
France	2		2		4
United Kingdom	1		2		3
Greece		1			1
Hungary					0
Ireland	1				1
Italy	1		4		5
Lithuania					0
Luxembourg					0
Latvia					0
Malta					0
Netherlands	1				1
Poland					0
Portugal	2				2
Slovenia					0
Slovakia					0
Sweden					0
<b>Total</b>	<b>10</b>	<b>5</b>	<b>16</b>	<b>1</b>	<b>32</b>

Figure 29 shows the financial impact of the 30 cases closed after completion of OLAF casework in 2005 and of the 17 monitoring cases.

Figure 29: Financial Impact of Structural funds cases closed in 2005



#### Case study: European Social Fund fraud

The director of a small consultancy firm was identified as a supplier of services to an entity under OLAF investigation in a case involving European Social Fund (ESF) funding. The director was also identified as a supplier to a direct expenditure project under investigation in another OLAF case. In both instances, the nature and quality of the services carried out were questionable. Further enquiries revealed that ESF funding had been granted directly to the firm in question for a project worth about €1 million. Although it had been claimed that the consultancy firm would put up significant private matching funding, the project had been closed early with much lower costs and outputs than initially foreseen.

A first on-the-spot visit was hindered by the absence both of the director and of key supporting documentation. The second OLAF visit proved more successful.

On the basis of the evidence obtained, OLAF concluded that the claim for ESF funding was unsustainable. Explanations provided by the beneficiary were contradictory and inadequate. Major items of expenditure could not be reconciled with the bank statements presented. Indeed, payments to a property firm shown in the bank statements for the rental of premises bore no relation to invoices, marked as rent, which had been issued by a company which could not be traced. It proved impossible to obtain independent or third party confirmations in respect of other questionable major items of expenditure. Furthermore, there were also instances of the consultant's private and business associates being recorded as trainees in other ESF sponsored courses. The consultant's accountant was also a principal in one of his many small trading or service sector companies, some of which were recorded as inactive by credit-rating agencies.

The investigation concluded that the case was sufficiently compelling to justify referral to the national authorities for possible criminal proceedings.

The financial impact is estimated at €275,000.

*Case study: Regional Development fraud*

This case was opened on the basis of information received through the OLAF Freephone. The complainant alleged irregularities on the part of the beneficiary of a project co-financed by the European Regional Development Fund (ERDF). This beneficiary was a non-profit-making Foundation. The total amount of the ERDF co-financing planned for the period 2000-2006 was over €5 million, representing 50% of the total cost.

An external investigation was launched in the light of the information provided to the Office by the national authorities (in particular, that the Member State had not carried out any checks on the beneficiary).

On-the-spot controls were conducted on the beneficiary and on its principal supplier.

The controls carried out revealed serious irregularities;

- the Foundation, a non-profit-making private organisation, had participated in the establishment of and was a shareholder in its principal supplier;
- the principal supplier, in its turn a permanent member of the Foundation, acted as an intermediary, receiving kickbacks/commissions which increased the cost of the operations without providing added value. On occasions the procurement had been directly controlled by the Foundation, but the invoice was addressed to the "principal supplier", who sent another invoice to the Foundation, with the same description, but raising the final amount by some 10 to 25 per cent;
- the supplier's activity was limited almost exclusively to the collection of the "sales" made by the Foundation;
- public tendering procedures had not been respected;
- the beneficiary did not provide a statement from the vendor either certifying the origin of certain second-hand assets, or confirming that for the previous 7 years these assets had not benefited from national or Community subsidies.
- a cross-control of the supplier, covering the documentation justifying expenses, showed inconsistencies between the beneficiary's and the suppliers' accounting documents;
- close family relations of the Foundation President turned out to be partners and/or administrators of equipment and service supplier companies connected to the project (including the principal supplier).

The mission report was sent to the national management authority which had taken part in OLAF's mission. This authority did not comment on OLAF's conclusions or on the recommendations of the control team.

In view of the serious irregularities revealed, OLAF proposed that all ERDF aid already paid to the beneficiary (€0,9 million) should be recovered. In addition, the national authorities were advised to withhold further ERDF co-financing of the same project amounting to €4,2 million.

The final report was sent to the national legal authorities, with a view to possible criminal proceedings.

## 2.2.6. Agriculture and trade

Origin fraud is a significant phenomenon in agriculture trade, both in relation to preferential tariff measures and to GATT tariff quota. For example, as shown in the case studies in this Report, large quantities of garlic of Chinese origin are declared with another origin and then benefit from the tariff measures mentioned above. On OLAF's initiative, the Commission published a notice to importers in August 2005. This advises Community operators to take all necessary precautions since the release of such goods for free circulation may give rise to a customs debt and lead to fraud against the Community's financial interests. It is the first Notice to importers where the scope of the origin of a product is not limited to a single third country but covers all relevant imports

During the reporting period, OLAF completed 80 standard evaluations of new information concerning agricultural matters. 35 new cases were opened (16 co-ordination and 19 external cases), 39 items were classified as non cases and 6 monitoring cases were opened with Member States.

After completion of operational work, 47 cases were closed in 2005: 28 with follow-up, 19 with no further action.

Figure 30 shows the breakdown of cases under examination at the end of 2005 by product and by the stage of proceedings.

*Figure 30: Breakdown of Agricultural cases in assessment and active stage at the end of 2005 by product*

Product	Assessments	Active cases	Total
Alcohol		3	3
Area aid		2	2
Cereals		2	2
Products under CITES <sup>5</sup> (imports of caviar, coral, etc)		3	3
Fruit and Vegetables	1	11	12
Garlic	2	15	17
Isoglucose		2	2
Live animals		2	2
Meat Products	2	18	20
Milk Products	1	4	5
Nitrates		1	1
Olive Oil	1	1	2
Products of non animal origin	1		1
Rice	1	2	3
Sugar	5	16	21
Tobacco		2	2
Wine	2	1	3
Wood		1	1
SAPARD (No specific Product)	4		4
No specific product	2		2
<b>Total</b>	<b>22</b>	<b>86</b>	<b>108</b>

In 2005, 36 controls on-the-spot under Regulation (EC) 2185/96 were carried out on operators in 7 Member States.

<sup>5</sup> CITES is the Convention on Trade in Endangered Species of Wild Flora and Fauna

*Case study: Illicit trade in non-quota milk and milk products between 2 Member States*

In May 2003 OLAF obtained information about an alleged fraud against the EU budget from a federation of dairy producers based in one Member State. The alleged fraud related to the trade of dairy products sold outside the quota system between producers in the same Member States and producers those in another Member State (i.e. without paying the levies imposed on such transactions). The trade was in both directions and involved full milk, skimmed milk and semi-skimmed milk.

OLAF opened an external investigation which established that in certain dairy companies the computer data recorded a higher quantity of milk purchased from producers than the quantity declared to the national control bodies. In addition trade operations were identified which involved what was described as "concentrated milk" sold at a very low price which could also serve to disguise milk quantities produced outside national quotas.

Following the completion of the OLAF investigation the file was passed to the administrative and judicial authorities of both countries. The estimated total financial impact is €31.8 million. This case is an example of how OLAF works in partnership with national services to combat illegal trade which damages the EC budget and distorts legitimate trade.

*Case study: Garlic imports from a third country*

An OLAF mission to a third country was carried out in May 2005, under the Mutual Assistance in Customs provisions of the Euro-Mediterranean Agreement to which the third country is a signatory. The objective was to verify whether some 3,400 tonnes of fresh garlic which had been imported into two Member States in 2003 and 2004 had indeed originated in the third country as declared.

In the course of this mission it was established that at least 135 container loads of Chinese fresh garlic had been transhipped before being shipped to a Member State, where the loads were customs cleared as originating from the third country. The falsification of origin meant the special levy/duty amount of €1,200/ton due on Chinese fresh garlic had not been paid.

OLAF provided the national customs authority in the third country with the original EUR.1 movement certificates, in order to allow them to check their authenticity. This also enabled them to use the certificates in a criminal investigation.

It was been established that all shipments imported in the EU in 2003 and 2004 under this origin had originated in China. Most of the EUR.1 certificates were forgeries; others had been issued in error, following the presentation of misleading information. Evaded customs duties are estimated at €4.3 million. Recovery procedures and criminal investigations have been initiated in the two Member States.

The exchange of information between OLAF and the customs authorities in the third country has been extended to a shipment that was imported into a third Member State in 2005. The degree of cooperation is high, fully in line with expectations under the Mutual Assistance agreement.

## 2.2.7. Customs, Alcohol, Cigarettes, Precursors and VAT

In general terms, the Customs sector continues to work well with the Member States. However, resource constraints at Member State level mean that there are a limited number of investigators with sufficient experience to participate in joint external investigations with OLAF. This can lead to delays in processing cases where the burden of proof and the follow up work required from these Member State investigators is onerous and time consuming. As a result, experienced Member State investigators are often over-stretched and not as productive as they could be.

The illicit trade in tobacco products continues to be a major problem in the EU, causing considerable losses to the European Community as well as national budgets. OLAF coordinated and assisted the Member States in conducting a number of complex investigations, both inside and beyond the EU borders.

In 2005, OLAF organised a working group for the Member States to discuss the growing problem of counterfeiting. In addition to reinforcing work with the authorities in countries where counterfeiting is traditionally produced, the working group also focused on the emerging trend of establishing illegal production sites within the EU. Technical expertise was provided by the major cigarette manufacturer Philip Morris International.

In 2004 the Commission and several Member States signed an Anti-Contraband and Anti-Counterfeit Agreement with Philip Morris International. In 2005, several other Member States acceded to the Agreement, a unique partnership between law enforcement and industry.

During 2005, OLAF completed the standard evaluation of 60 items of information in the five Customs Sectors. These evaluations led to the opening of 31 cases and two monitoring cases. 27 items were closed in 2005 as non cases.

The 31 cases opened in 2005 can be summarised as follows:

*Figure 31: Cases opened in Customs Sector in 2005*

OLAF Sector	External investigation cases	Co-ordination cases	Criminal Assistance Case	Total
Cigarettes		3	1	4
Customs	10	12		22
VAT		2	3	5
<b>Total</b>	<b>10</b>	<b>17</b>	<b>4</b>	<b>31</b>

At the end of 2005, 121 cases remained open in the 5 sectors. Figure 32 shows a breakdown of the type of fraud involved in each of these cases. As each case may involve multiple types of irregularity, the total exceeds the number of actual cases. False declarations of product origin remain the most common form of irregularity.

*Figure 32: Breakdown of types of fraud involved in the Customs cases open at the end of 2005*

Type of fraud	Alcohol	Cigarettes	Customs	Precursors	VAT	Total
Accounting records not presented					1	1
False description of goods		1	7			8
False origin declaration			41			41
False quantity declaration			1			1
False value declaration			1			1
Non fulfilment of customs obligations			1		2	3
Other false declaration		1	5		1	7
Other fraud		2	12		13	27
Other transit fraud			1		1	2
Smuggling		31	1		1	33
<b>Total</b>	<b>0</b>	<b>35</b>	<b>70</b>	<b>0</b>	<b>19</b>	<b>124</b>

Figure 33 shows the breakdown of open VAT cases by product at the end of 2005.

*Figure 33: Breakdown of VAT cases open at the end of 2005 by product*

Product	Number of cases
Automobiles	6
Computer equipment	4
Foodstuffs	1
Mobile phones	3
Multiple items	2
Non ferrous metals	1
Pharmaceutical products	1
Silicone carbide	1
<b>Total</b>	<b>19</b>



*Case study: Textiles from the Caribbean*

In March 2005 a Caribbean Customs authority invalidated all EUR.1 movement certificates issued for more than 21 million pieces of knitted textiles (mainly jerseys, pullovers and cardigans) exported to the European Community in the three previous years. This was the result of a Community mission carried out in this country by a team composed of OLAF officials and representatives from the customs authorities of the Member States affected by the relevant textile imports and assisted by the national authorities.

OLAF opened an external investigation in March 2004 following information received from a Member State questioning the authenticity of the EUR.1 certificates submitted on importation into the Community. The importers used these certificates as proof of origin with a view to benefiting from the preferential treatment (0% duty rate) granted by the European Union within the framework of the Cotonou Agreement to products originating in the country. Goods have to satisfy the relevant preferential origin rule. In the case of the textile goods concerned, the preferential origin rule requires the manufacture to be from yarn.

OLAF carried out extensive research in preparation of the joint verification mission. The research revealed that the alleged Caribbean manufacturers had sourced only very small quantities of yarn. These could not possibly have sufficed for the production of the huge quantities of ready-made garments exported to the Community. Indeed, the subsequent investigation concluded that most of the goods exported to the Community were either manufactured in the country from pieces of imported knitted fabric already cut to form or were re-exports of finished garments originating from Asia. The Asian goods were supplied by a network of companies belonging to a multinational textile group which also operated the companies in the Caribbean. The latter had applied to local Customs for the issuance of the EUR.1 certificates. They had falsely declared that the goods exported had been manufactured from yarn. In January 2005, immediately after the quantitative restrictions applying to Asian textile supplied to the European markets were lifted, the Caribbean companies ceased their business activities.

OLAF received the full assistance and support of the national authorities in the course of this investigation.

To date, the Member States concerned have initiated recovery proceedings in respect of more than €20 million of customs duties evaded by falsely declaring the goods at importation into the Community as originating in the country in question. Member State authorities are facing appeals lodged by several importers at the request of the multinational textile group.

*Case study: Colour televisions from Asia*

A European trade association alleged in September 2001 that colour televisions (CTVs) originating from two Asian countries were being fraudulently declared as originating in another country to avoid paying anti dumping duties on importation to the EU. The allegations were confirmed by the results of an anti-dumping investigation by the Trade Directorate General of the Commission. The latter confirmed the allegations of the false declaration of origin for the CTVs. OLAF opened its own investigation. All available information was communicated to Member States' customs investigation services in September 2002.

OLAF requested the assistance of the third country's authorities in December 2002. An initial preparatory visit to the Asian manufacturer took place in February 2003. A verification mission took place in January 2004, led by OLAF, in which four Member State customs investigation services and the local authorities also participated. These investigations established that the company concerned did indeed export CTVs of falsified origin to the Community. All relevant reports and data were forwarded to Member States' customs services for follow up action including recovery of anti-dumping duties. Civil debt recovery procedures for an estimated €18 million in anti-dumping duties have already been notified to the importers in 8 Member States. Appeals against the debt recovery are underway in a number of Member States.

*Case study: Ring-binder mechanisms*

A European trade association alleged that ring-binder mechanisms (RBMs) originating in Asia were fraudulently declared as originating in a particular country to avoid the payment of EU anti dumping duties. OLAF opened an investigation. The allegations were confirmed by the results of an anti-dumping investigation by the Directorate General for Trade of the Commission published in June 2004 which confirmed the circumvention of anti dumping duties. Subsequently, the OLAF investigation was extended to cover a third country following the receipt of new information to the effect that this country had also been used to circumvent the anti-dumping duties.

OLAF opened its own investigation and communicated all available information to Member States' customs investigation services. OLAF requested the assistance of the national authorities in Asia in July 2004. Community verification missions took place in November and December 2004 led by OLAF. Three Member State customs investigation services and the local national authorities participated. These investigations established that the company concerned did indeed export RBMs of falsely declared origin to the Community.

The companies in all three countries are linked. All relevant reports and data for both cases have been forwarded to Member States' customs services for the necessary follow up action including recovery of anti-dumping duties. Civil debt recovery procedures for an estimated €6 million in anti-dumping duties have already been notified to the importers in six Member States and criminal investigations are also underway in a number of Member States.

### **2.3. Multi-agency investigations**

OLAF's fourth Activity Report described the investigations initiated by OLAF into the subsequent conviction in Germany of an individual who had defrauded a publicly owned enterprise in Kosovo of more than \$ 4 million (subsequently recovered in full). In the light of the experience gained in this case, an Investigation Task Force (ITF) was established on 21 October 2003 in Kosovo by Decision of the UNMIK Special Representative, staffed by OLAF, the United Nations Office of Internal Oversight Services (OIOS) and the Italian Guardia di Finanza. The ITF concentrated initially on allegations of fraud at Pristina airport. This investigation was concluded in mid-2005. Seven cases have been referred to the judicial authorities in Kosovo, one to the local police and 17 involving administrative irregularities were referred to UNMIK. Subsequently, the ITF has concentrated on allegations of corruption and diversion of funds in public sector enterprises which generate and distribute energy. The amounts potentially at stake run to many millions of euros.

### **3. OPERATIONAL SUPPORT**

#### **3.1. Intelligence Activity**

##### **3.1.1. Strategic Intelligence**

The strategic intelligence capability of OLAF has continued to develop. Improvements have been made in the ability to gather information and in the provision of in-depth analysis to give strategic direction and support to OLAF's operational activities and to reinforce OLAF's policy role. Output in the reporting period included:

- A number of risk assessments based on reports of irregularities in the funding of the Common Agricultural Policy and Structural Funds have been produced to support the Office in the setting of priorities for control and investigation policies, and to support policy development and the prioritisation of case related issues.
- Analyses of irregularities and frauds have been presented to Member States' authorities in order to highlight trends and major weaknesses in the sectors of shared management (agriculture and structural actions).
- Training and support have been offered to the new Member States and Candidate Countries to prepare them for reporting and analysing irregularities in these sectors.
- An in-depth analysis of certain statistical information relating to VAT has been carried out to determine its potential as a source for the detection of fraud, fraud patterns and fraud sensitive product groups.
- Co-operation with anti-fraud intelligence units in the Member States, candidate countries, third countries and other international institutions has been further strengthened. Specific attention has been paid to building working relationships with authorities in the new Member States as part of the Multi-country PHARE programme. A working partnership has been developed with Europol following the signature of a Memorandum of Agreement (see paragraph 6.4), both in terms of strategic intelligence exchange and the sharing of analysis techniques and IT capabilities.
- Following the signature of a cooperation arrangement in 2005, arrangements for information exchange have been established with the Belgian Financial Intelligence Unit (FIU).
- Progress in the development of new tools and techniques to gather and exploit information and to identify new and improve existing sources. The ability to access, exploit and analyse data is key to the success of OLAF's intelligence capability.

##### **3.1.2. Operational Intelligence**

Operational intelligence includes specialist support and assistance to OLAF investigators on internal and external investigations. The team is sometimes also asked to assist the Member States. Some 2,200 requests for information and intelligence support were handled within OLAF during 2005, compared to some 1,500 in the 9 months in 2004 for which figures are available.

Since April 2004, such requests have been made through the Case Management System (CMS) making it easier to manage the relationship between the intelligence analyst and the investigator who requires intelligence support. The analysts' involvement with OLAF investigators is becoming more intensive, with intelligence increasingly an integral part of the investigative process. This is reflected in the underlying increase in particular of requests in support of internal investigations where the combination of normal data and institutional data sources involve specialist knowledge and expertise. The increased level of activity is also found in the more complex nature of tasks performed. The use of forensic techniques and work on high volume data is a more common occurrence.

Major projects carried out by the operational intelligence analysts include:

- Gradual deployment of an automated monitoring tool. The Automated Monitoring Tool (AMT) automatically monitors a range of trade statistics in order to produce “alerts” which are triggered when changes in statistical patterns hit preset thresholds. For example increases in the volume of trade between trading partners, or price outliers (unusually low or high prices relative to usual patterns). These alerts can then be studied by analysts in order to determine whether there are grounds for suspicion which merit deeper examination in anti-fraud prevention and investigation. The methodology could in principle be applied to trade data of any sector. At present, it is being used to monitor certain areas of high risk to EU financial interests, for example in agricultural and textile trades. Alerts and results have been disseminated to Member States and increasingly in collaboration with other Commission services (DG TAXUD, DG TRADE, EFSA – European Food and Safety Agency).
- Garlic is subject to a significant import duty when imported from China outside the existing import quota. This has led to a series of fraud cases in the past, where operators used Chinese garlic for transshipments via certain third countries or importation to third countries with subsequent re-exportation and misdeclared the product at importation into the European Community in order to camouflage the true nature and origin of the garlic. On this basis, OLAF has carried out an extensive analysis of all trade flows of Chinese garlic worldwide and has identified 14 possible cases of transshipments in third countries of which 5 cases were already active investigations. 9 cases were to be assessed further and have led to the opening of 5 new investigations.
- Antidumping duty ad valorem on bicycle parts has recently been increased and extended to Taiwan. Operators have attempted to evade such measures by using different routes for export (mainly via South East Asian countries: Philippines, Malaysia, Indonesia, etc). Similar extensive analysis and research techniques using a range of public and commercial data sources were also used to identify new transshipment routes and to trace companies involved. The exercise also identified a tendency of undervaluation fraud as well as misdeclaration and geographical circumvention. Goods are declared at a much lower value per unit, resulting in lesser duties paid on the total value of the shipment.
- Analysis of high risk trade flows: The EU has banned imports of certain animal products from countries where Foot and Mouth Disease (FMD) is endemic. The price differences resulting from such a prohibition create a considerable incentive to introduce these products illegally into the territory and the markets of the EU. In the context of a comprehensive risk assessment on FMD related issues, the European Food Safety Authority (EFSA) had requested OLAF to produce a study on the risks of possible illegal introductions of animal products from FMD risk areas on EU territory. Global trade flows for 11 products originating from 7 FMD risk areas were analysed. This analysis suggested that although the

risk of illegal imports into the EU appears to be lower than in other areas (e.g. garlic), in particular after the ban of transits via EU Member States, exports of meat from FMD risk areas to EU countries which are neighbours to the EU in Central and Eastern Europe have risen strongly. This creates a potential risk for further spreading of the disease.

- TED (Tender Electronic Data): OLAF obtained a very large quantity of data about public procurement which had been published in the Official Journal and filtered this to create a database of Commission procurement expenditure which could be used for strategic and operational analysis. The application of data mining and clustering techniques to this database is of strategic interest, and the same database is being used in a number of ongoing investigations in the procurement domain.
- OLAF has continued to provide operational and logistical support for the Member States during Joint Customs Operations (JCOs).
- OLAF invested considerable resources into creating the Permanent Operation Coordination Unit (P-OCU), which is used to conduct Joint Customs Operations (JCO). An operations room was equipped with 15 work posts, a meeting room for briefing/debriefing sessions was made available, and secure network connections were set up allowing operational staff to exchange information securely with their colleagues in Member States and third countries. The P-OCU was inaugurated in May 2005. In the past the preparation of such operations in Member States required long and complex planning and preparation; this new permanent infrastructure "on stand-by" at OLAF premises allows for a flexible timing and rapid execution in case of urgency. It is also used for training courses for members of the AFIS/CIS community.

*Case study: Joint Customs Operations*

With its new installations, dedicated room (P-OCU room) and software (Virtual OCU), OLAF supported seven Joint Customs Operations in 2005.

The successful operation FAKE (a container operation in collaboration with DG TAXUD targeting the smuggling of counterfeit goods from Asia) led by OLAF resulted in the seizure of 140 air freight consignments and of 60 deep sea containers. The total weight of counterfeit goods was nearly 500 tonnes. More than 1.2 million packets of counterfeit cigarettes were seized, along with some 0.8 million other items. Apart from cigarettes, the other counterfeit materials were mainly textiles, electronics, and medicines.

“FAKE” was accompanied by a co-ordinated communication strategy in all EU and Accession Countries which explained its impact on the illegal trade in counterfeit goods.

The Virtual Operational Coordination Unit (OCU) IT application has successfully managed three types of operations:

- MARSUR for fraud conveyed by yacht;
- CONSUR for fraud conveyed by container transport;
- VIASUR for fraud by road transport.

### **3.1.3. Technical assistance**

Improved technical support in computer forensics continued to be provided for OLAF investigations, by applying new technologies to make electronic data more easily accessible. The volume of data captured during single operations has grown exponentially. Large complex operations were performed in cooperation with partner services such as the Italian Guardia di Finanza and the UNMIK Organisation in Kosovo. During several operations, vast amounts of paper documents were digitised and made available to partner services on DVD in searchable format. For future operations mobile scanning support is foreseen. The specialist team keeps abreast of international professional standards.

## **3.2. Information/IT support**

In 2005 OLAF completed the work on the separate secure physical infrastructure (separate cabling, switches, secure machine room) that will host the Core Business Information Systems (CBIS). CBIS comprises all systems managing sensitive operational information such as the Case Management System, the Anti-Fraud Information System and the various intelligence systems.

In order to maximise both efficiency and security all business mail received or generated by OLAF is scanned and distributed electronically. During the reporting period more than 38,000 documents were processed representing a total of more than 455,000 pages, which is an increase of approximately 20% compared to last year. OLAF introduced the scanning of all case-related documents in May 2003. In order to complete the electronic records for those cases created before this date, OLAF created a new infrastructure to support the scanning and processing of these documents.

Several major IT initiatives were launched during the reporting period in order to provide better support to OLAF's operational activities. These initiatives include the preparation and evaluation of public tenders for:

1. the provision of a whistleblower software to improve and expand information sources;
2. the development of OLAF's text-mining capability to improve intelligence work;
3. the provision of OLAF-specific IT and physical security services.

These tenders were completed successfully and contracts were signed before the end of 2005.

For a description of the further developments/improvements of the Case Management System and the Anti-Fraud Information System please refer to chapters 1.4 and 3.4.

## **3.3. Anti Fraud Information System (AFIS) / Customs Information System (CIS)**

### **3.3.1. AFIS**

The primary means of cooperation and information exchange with Member States falls under the framework of Mutual Assistance (Regulation 515/97) using AFIS, the secure communication system. During the reporting period, the user community increased to 4,378 registered users, with nearly 770,000 messages exchanged during 2005.

In response to the business and operational demands of Member States, IT development continued to provide streamlined and structured tools within AFIS aiming towards an increasingly targeted basis for risk assessment and analyses of the suspicious movements of goods. A pre-functional specification has been introduced in order to move the existing AFIS to a web browser technology.

The Mutual Information System (MIS) allows for the monitoring of beef and pork meat exports to the Russian Federation by all forms of transport. A new “business to business” function has been developed to minimise the need for manual intervention. This system enables exports to be verified and export refund payments to be paid to traders more accurately and quickly.

### 3.3.2. CIS/FIDE

#### Customs Information System (CIS)

The Customs Information System (CIS) based on Council Regulation (EC) No. 515/97 and the CIS Convention was put into full operation in 2003. The CIS was created to store information on commodities, means of transport, persons and companies in order to assist in preventing, investigating and prosecuting actions which are in breach of customs and agricultural legislation (1<sup>st</sup> Pillar) or serious contraventions of national laws (3<sup>rd</sup> Pillar). The initial level of use of the CIS by national authorities has been disappointing. From the launch of the system in March 2003 until the end of 2004, only 140 cases were registered in the Customs Information System (CIS) database.

OLAF and the Customs services of a number of Member States have adopted a strategy for increasing the use of what is potentially a powerful tool for cooperation between Customs administrations. This strategy has begun to produce its first benefits. By the end of 2005, 537 cases had been entered into the Customs Information System (CIS) database. These cases are accessible to over 3,000 users located in the main ports, airports, border posts, risk analysis services, investigation and intelligence services. The CIS database handled more than 16,000 search requests. The future introduction of a web-based AFIS/CIS should enhance the full use of the CIS.

For the CIS 1<sup>st</sup> pillar database, to which (unlike the 3<sup>rd</sup> pillar equivalent) the Commission (OLAF) has an unlimited access, the active cases are related to the following type of fraud alert:

*Figure 34: 1<sup>st</sup> Pillar alerts to active cases*

Type of Alert	Proportion
Counterfeit goods (including cigarettes)	34%
Cigarettes - Smuggling	23%
CITES (Endangered species of flora and Fauna)	13%
Misdescription of goods (CN code)	8%
Precursors (Chemical products for narcotics)	4%
False origin declared	3%
False customs value	3%
Others ( average 1% each)	12%

#### FIDE

Further to the adoption of the protocol amending the Convention on the use of information technology for Customs purposes, OLAF conducted a feasibility study for the creation of a European Customs File Identification Database (known as FIDE after the French acronym). FIDE will be a central European database tool containing identification data on persons and companies convicted of (or suspected of) having infringed Customs laws. OLAF initiated the technical development of the system. If all the legal requirements are met by Member States, it is expected that the system will be launched on 1 November 2006.



Using search and interrogation features, FIDE will be able to provide a Customs authority with an overview of current or historical irregular activities by persons or companies in other Member States. If a search is successful, the Customs Authority will receive from FIDE all necessary information to contact the MS Customs department(s) dealing with relevant investigations.

FIDE will simplify the communication exchanges between Customs Officers in different Member States towards the identification and implication of a person or company in their own investigations. Instead of several phone calls to numerous Member States and offices, FIDE will reduce this task to a search in the database, followed by a phone call to the Customs office or offices directly concerned.

FIDE will be a common central database storing standardised Customs case investigation data provided by each Member State. It will be accessible at any time by authorised persons seeking information on other investigations.

Standardising the Customs investigative data provided by each Member State will reduce recording errors and ensure the consistency of quality of information recorded.

The overall benefits of FIDE as follows:

- Simplify the investigation process for local and Member State customs Cases.
- Reduce the time spent in searching and collating relevant information for investigating local and Member State customs cases
- Expand access and volume of case relevant data available to Customs investigations services).
- Increase in efficiency and more effective use of investigation resources due to the larger volume of better quality data.

#### Anti-fraud Transit Information System

Following the implementation of the New Computerised Transit System (NCTS), OLAF drafted, in agreement with DG TAXUD, an administrative arrangement for the introduction of the Anti-fraud Transit Information System (TIS) intended to provide important information on national and international movements of sensitive goods. The current Customs Early Warning System (EWS-C) will be retained exclusively as a fallback procedure in order to cover any periods of NCTS downtime and thus ensure the uninterrupted provision of pre-arrival information for transit movements of sensitive goods. The proposal was discussed within the EC/EFTA Working Group on Common Transit and has been approved. Technical solutions are currently being evaluated with both TAXUD and an external contractor in order to secure full implementation of the TIS by the end of the year 2006.

#### **3.4. Legal support**

The Case Management System provides for two modules to obtain legal support for the operational activities.

In the framework of the preparation of the Investigations and Operations Executive Board, a consultation stage allows a pro-active consultation on the opening and closure of investigation, for example on the legal base for the operational activity, the assessment of the financial impact or on the application of administrative sanctions under the Financial Regulation following the closure of OLAF's investigation.

### 3.4.1. Legal advice on national criminal law

During 2005, the judicial advice unit increased its involvement in operational cases. During the year, the new legal advice module of the CMS became operational. In addition, the unit is frequently consulted on the proposals to be presented to the executive board and in more informal ways.

*Figure 35: Judicial advice provided in the course of an investigation (historical)*

Major Sector	Number of cases
Agriculture	32
Cigarettes	27
Customs	12
Direct Expenditure	55
ESTAT	11
External Aid	75
Internal Investigations	74
Multi Agency Investigations	4
Precursors	1
Structural Funds	60
Trade	8
VAT	18
<b>Total</b>	<b>377</b>

### 3.4.2. Legal advice on European law in support of operational activity

The Case Management System has also been extended to include a module through which OLAF operational staff may obtain specialist legal advice from OLAF's legal units. This facility brings the legal advisers directly into the context of the enquiry. It also ensures effective coordination and communication and better organization and archiving of work within the legal units. In the eight months in which the module operated in 2005 more than 50 requests for legal advice were handled, relating to various areas of OLAF's operational activities, including internal investigations, direct expenditure, customs operations and international cooperation.

## **4. FOLLOW-UP ACTIVITY**

### **4.1. Financial and Administrative follow-up**

#### **4.1.1. Traditional Own Resources**

Administrative follow-up includes the monitoring of the application of sanctions and the withdrawal of importer privileges where fraud or irregularities have been detected. Financial follow-up is principally concerned with the recovery of debts related to the operational files. OLAF cases in the traditional own resources sector typically involve evasion of agricultural import duties, customs and anti-dumping duties applicable to all types of industrial and fishery products. Both kinds of follow-up activity were conducted throughout 2005 on an increasing number of cases.

In performing this often legally complex activity, due regard was paid to the strict provisions of the Community Customs Code, the rules of origin/preference (including the various Trade Agreements concluded by the Community) and the specific requirements of regimes with economic impact such as duty relief linked to inward processing arrangements.

It is frequently the case that points of principle have to be settled in a national hearing. Broadly speaking, such legal proceedings may become necessary in order to confirm an operator's financial liability for the payment of customs duty and thus trigger recoveries of customs duty. Formal challenges and appeals from importers are common. During the last year OLAF has found itself increasingly committed to providing specialist support both to other Commission services and to Member States' administrations involved in such litigation.

The front-line financial recovery machinery rests with Member States' competent authorities. OLAF supports the national customs administrations with the provision of data from the operational case file in order to maximise the chances of timely notification of import duty debts and the action taken to recover them. Council Regulation 2028/04 introduced some important changes to the latter activity, one of the most noticeable being that after 5 years from the date when the duty liability was definitively established, any related amounts of debt not yet recovered are deemed to be irrecoverable and are effectively written off in national traditional own resources accounts. Where the amount of debt in question exceeds €50,000, the Member State authorities have to provide the Commission with information about the circumstances leading to the write-off. The Commission then has six months following receipt of the report to forward its comments to the Member State concerned. OLAF has taken these new provisions into account during 2005 when performing financial follow-up in the traditional own resources sector and closing follow-up cases for submission to the OLAF Investigations and Operations Executive Board.

#### Case study: Imports of coffee capsules from a third country

OLAF alerted Member States by means of a mutual assistance message to a possible irregularity involving imports of coffee capsules (for coffee machines) from a third country into the European Community. The suspicion was that the importing companies were not accounting for customs duty due on certain royalty fees which they had to pay on a quarterly basis to the exporter (manufacturer) in the third country. Following post-clearance audit action, the customs authorities of 7 Member States informed OLAF that irregularities had indeed been detected. The projected overall financial impact for this case currently stands at €570,000 of which virtually all had been recovered by the end of the reporting period.

#### Case study: Imports of a mixture of milk powder and rice into the European Community

OLAF and the competent services of the two Member States concerned carried out an enquiry in connection with imports of a mixture of milk powder and rice into the European Community declared as originating in an OCT (Overseas Countries and Territories) country. It was subsequently established, however, that the specific mixing operations carried out in the OCT country concerned were not sufficient to confer qualifying origin status upon the final product, both in terms of preferential and non-preferential origin. A duty liability of 11% was therefore applicable, and not the preferential zero rate actually claimed. Of a total financial impact of €6.5 million over €700,000 in duty has been recovered for the Community budget to date in respect of this case, and follow-up enquiries are continuing both with regard to an ongoing Appeals Tribunal case and the possibility of further recovery action being required to rectify the inappropriate payment of export refunds.

#### **4.1.2. Indirect Expenditure**

The financial management of expenditure in the fields of agriculture (EAGGF-Guarantee) and of Structural Actions (Structural Funds and Cohesion Fund) is shared between the Commission and Member States. The initial formal responsibility for recovering funds unduly paid falls on the Member States. OLAF's financial follow-up function consists of consulting with the responsible services in Member States and with other Commission services in order to verify the recovery activities undertaken and results obtained. This is without prejudice to possible improvements in legislation as a result of lessons learned (legislative follow-up) or to criminal prosecution for fraud (judicial follow-up).

OLAF concentrates its follow up on cases which have been investigated by the Office, or where the Office has coordinated investigative action carried out by other competent partners in Member States. For cases involving agricultural expenditure and structural actions, OLAF monitors the financial follow-up carried out by the Member States concerned: for every irregularity OLAF verifies whether the Member State has informed the Commission in conformity with the Community regulations applicable and monitors the progress of the various recovery actions through the Member States' formal communications.

*Case study: EAGGF Canned Peaches.*

On the basis of allegations received through DG AGRI concerning the non-respect by a processing company of the minimum price to be paid to peach producers for the campaign 2000/2001, OLAF opened an investigation and carried out on-the-spot controls in a Member State.

The investigation in which the allegations were confirmed was finalised in 2003 and the case was transmitted for financial and judicial follow-up. The financial impact of the case was estimated at nearly €1.5 million in subsidies unduly paid. However, DG AGRI has taken steps in the Clearance of Accounts procedure to charge the whole expenditure under the relevant budget line for the period in question, some €3.7 million, to the Member State. At judicial level, the case was examined by two national prosecutors. However, in both cases, after the completion of the ordinary investigation, the national judicial authorities decided not to proceed due to the lack of evidence in regard to criminal activity.

*Case study: EAGGF Rural Development.*

Irregular funding was uncovered in a forestry rural development project from a region of a Member State. Initial information from the European Court of Auditors was pursued and OLAF opened a monitoring case. The financial impact was € 250,000 and has been recovered in full from the region in question. The case was accordingly closed in December 2005.

## **Task Force Recovery**

OLAF continued to participate with DG AGRI in the Task Force Recovery (TFR) charged with clearing the backlog of non recovered amounts related to agricultural irregularities communicated by Member States before the end of 1999. The TFR submitted proposals for resolving 463 cases which exceed a threshold of €0.5 million, involving a total amount to be recovered of € 857 million.

The proposal for each individual case was discussed in bilateral meetings with Member States in order to prepare a final Commission Decision on the financial liability for each case. These discussions took place within the framework of the formal Clearance of Accounts procedure for EAGGF Guarantee, under the responsibility of DG AGRI.

The TFR has also processed information received by Member States on some 3.200 cases notified before 1999 which fall below the €0,5 million threshold. The total value is about €200 million.

## **Structural Actions (Structural Funds and Cohesion Fund)**

OLAF participated in the further simplification and improvement of the regulations which deal with the management of the Structural Funds. The main changes relevant to OLAF's work agreed in 2005 and published in regulations (EC) no. 2035/2005 and no. 2168/2005 were:

- definition of “irregularity” ;
- definition of the term “suspicion of fraud” ;
- clarification of the moment when a new case must be reported ;
- removal of the obligation to report cases of simple bankruptcy – except in cases of suspected fraud ;
- electronic transmission of the information concerning irregularities ;
- adapting the reporting threshold from €4.000 to €10.000 per single case;
- re-definition of the objectives in order to place more emphasis on risk analysis.

OLAF continued to assist the other Commission services with the closure of the programmes in the structural funds sector for the programming period 1994-1999, in order to make sure that the financial consequences involving irregularities communicated by Member States had been properly defined.

Finally, OLAF closed the follow-up stage in respect of 37 operational OLAF cases in the structural funds sector.

*Case study: the European Social Fund*

OLAF opened an investigation on allegations of fraud against a beneficiary in connection with five projects co-financed within the framework of the Structural Funds, and in particular the so called “old” European Social Fund, during the period 1986-1988. A criminal investigation was already in progress at national level. OLAF’s assistance was given following a request by the national prosecutor.

The beneficiary in question had also benefited from subsidies of the European Social Fund during the first (1989-1993) and second (1994-99) programming period. The OLAF investigation revealed that the Community contribution for the five projects amounted in total to €2.75 million. At OLAF’s request, the national authorities carried out a control of all the programmes for which the beneficiary had received subsidies. OLAF was regularly in contact with DG EMPL and the national authorities in order to monitor the recovery of the amounts at stake. Despite the fact that the initial investigation was carried out only for the “old” European Social Fund, a detailed follow-up was made within the framework of the two later programming periods.

This further analysis revealed that a total of eight programmes relating to the same beneficiary were affected by irregularities. OLAF was consulted in June 2003 by DG EMPL on the closure of all the programmes of the first programming period related to the Member State in question. In May 2004, after analysis and clarification of the information received, OLAF agreed on the amounts to be corrected and related these to all OLAF cases in the follow-up stage. The national authorities deducted nearly €1.4 million from amounts due to the beneficiary, within the total of over €2.5 million suspended by the Commission.

After further irregularities had been taken into account, the total recovered from the beneficiary in question exceeded €6.7 million. Penal proceedings in the Member State are still ongoing.

At the same time, follow-up was closed for more than 10 similar irregularities cases relating to the programming periods described above and in the same Member State. This demonstrates that in the area of Structural Actions a long period is necessary in order to finalise all the follow-up procedures in cases which involve both administrative procedures and judicial proceedings.

### **4.1.3. Direct Expenditure**

Follow-up in the field of direct expenditure and external aid (including the follow up of multi-agency investigations) concerns expenditure where implementation tasks are performed by Commission departments rather than the Member States, or are delegated by the Commission to third countries. Follow-up activities also cover, where appropriate, the financial and administrative/legislative follow-up of internal investigations. The accumulated expertise and experience of the Office in operational and recovery matters can be used to improve the fraud proofing of legislation, contract clauses and financial agreements with third countries. In addition, action to secure the Community’s financial interests can be taken effectively during the investigation phase. Most of these activities consist of initiating, coordinating and monitoring recovery action by the Authorising Officers of sums due to the Community following OLAF’s investigations.

Financial follow up in the area of direct expenditure focuses especially on those investigations which have led to criminal proceedings. In order to support recovery, OLAF assesses and supports the possibility of launching civil action within criminal proceedings in those jurisdictions where this is possible.

Administrative follow up concentrates on assisting the Commission services to apply the appropriate administrative sanctions (such as the exclusion of tenderers or beneficiaries from contracts or grants financed by the Community budget for a maximum period of five years or the payment of financial penalties) on the basis of OLAF's investigative findings.

In its role of looking for missing debtors in the areas of direct expenditure, OLAF established the latest known location of the debtors concerned in 73 % of the requests received from several Commission Services. In 2005 OLAF received a total of 124 requests for debtor searches and was able to supply additional information (e.g. address, names of company executives and/or liquidators) concerning 91 of these requests. These requests came from various Authorising Officers (e.g. DG DEV, DG INFSO, DG AIDCO etc.) and from DG BUDGET. The amounts to be recovered that were communicated to OLAF ranged between €1,000 and €1.000,000.

*Case study: Loan to North African country*

The European Investment Bank (EIB) signed a financing contract with a North African country, for risk capital loans worth €20 million. The funds were to be distributed, as loans, to various financial institutions in order to finance participations in commercial and industrial companies. Allegations were made about one of the financial intermediaries and OLAF opened an external investigation. An on-the-spot visit was carried out by the EIB and OLAF to investigate several loans. The conclusion was that the financial intermediary had not given full information to the EIB and the national Ministry of Finance. Had the full information been disclosed, the loans would almost certainly not have been accepted.

For example, a loan in excess of €205,000 was attributed to "company B" provided the company carried out a capital increase for the same amount. The investigation showed however that the capital increase was fictitious because it was based on false documents and false declarations. As the capital increase was a "sine qua non" for the attribution of the loan, the entire amount, plus interest, had to be recovered. Subsequently company B stopped its activities and the financial intermediary blocked the funds it had requested as a guarantee for its long term debt, thereby ensuring almost full recuperation of the loan.



*Case study: NGO active in Central and South America*

OLAF recently investigated an NGO which was active in Central and South America. Amongst the findings were conflicts of interest, false declarations and control and accounting procedures which were not properly followed. OLAF informed the responsible Commission service of the irregularities at an early stage of the investigation, thereby ensuring that timely safeguard measures could be put in place to prevent the loss of assets, as the beneficiary was in the process of dissolution. The Commission service involved has issued recovery orders for an amount in excess of €720,000.

*Case study: Fraudulent practices of an NGO*

OLAF investigated an NGO which is active in several countries in Africa, South America and Asia. The investigation uncovered fraudulent money transfers, unjustified expenditure, double funding and false signatures amounting to at least €2.4 million. OLAF assisted the Commission in establishing the exact amount to be recovered. Given that several authorising officers were involved in the recovery process concerning the same NGO, OLAF coordinated the recovery actions and prepared the way for a civil party action within criminal proceedings in a Member State in order to safeguard the recovery.

*Case Study: EC Representation (see also 4.2.1.)*

An OLAF investigation into allegations of fraud and forgery by a former bookkeeper at an EC Representation in a Member State, who had been recruited via a private sector employment agency, was closed in July 2003. The investigation revealed that the EC Representation had been defrauded of €64,000. During the financial follow-up, OLAF worked closely with DG PRESS and the EC Representation in order to ensure the recovery of the amount stolen. The EC Representation reported that the trial judge had agreed several times to the request of the defence to delay sentencing so as to give the accused the opportunity to repay the total amount stolen and so influence the sentence. In November 2005 the EC Representation informed OLAF that a total of € 55,148 (86 %) had been recovered. In November 2005 the guilty individual was sentenced to two years imprisonment with no reduction for the length of the proceedings.

#### 4.1.4. Statistical summary of administrative and financial follow-up

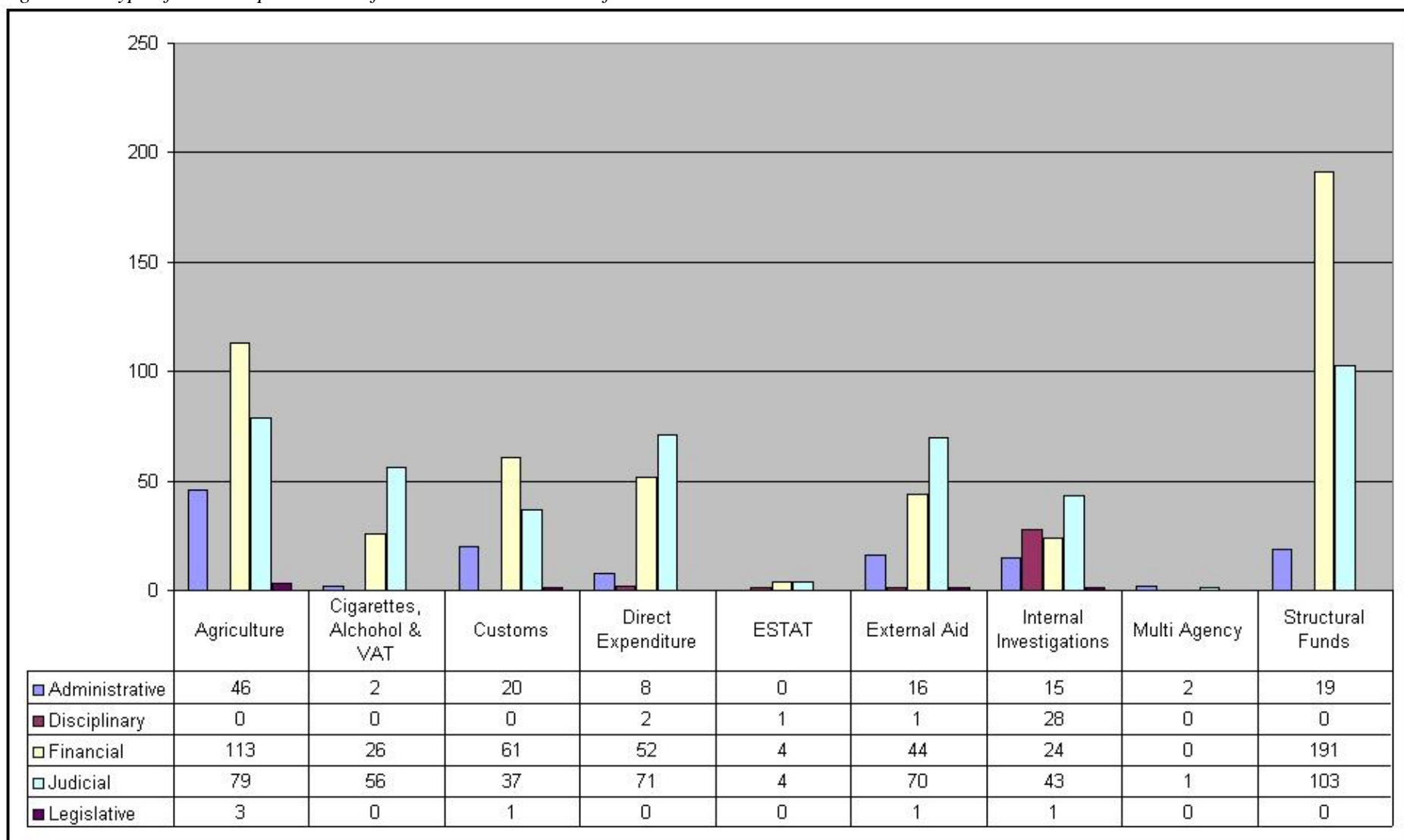
Figure 36 shows the increase in the number of cases in follow-up during 2005.

*Figure 36: Cases in follow-up by sector at the end of year*

Sector	2004	2005	Increase (%)
Agriculture	62	82	32%
Alcohol	4	4	0%
Cigarettes	23	27	17%
Customs	63	71	13%
Direct Expenditure	78	85	9%
ESTAT	4	8	100%
External Aid	82	87	6%
Internal Investigations	44	51	16%
Multi Agency Investigations	0	2	n/a
Structural Funds	202	199	-1%
Trade	70	70	0%
VAT	26	28	8%
<b>Total</b>	<b>658</b>	<b>714</b>	<b>9%</b>

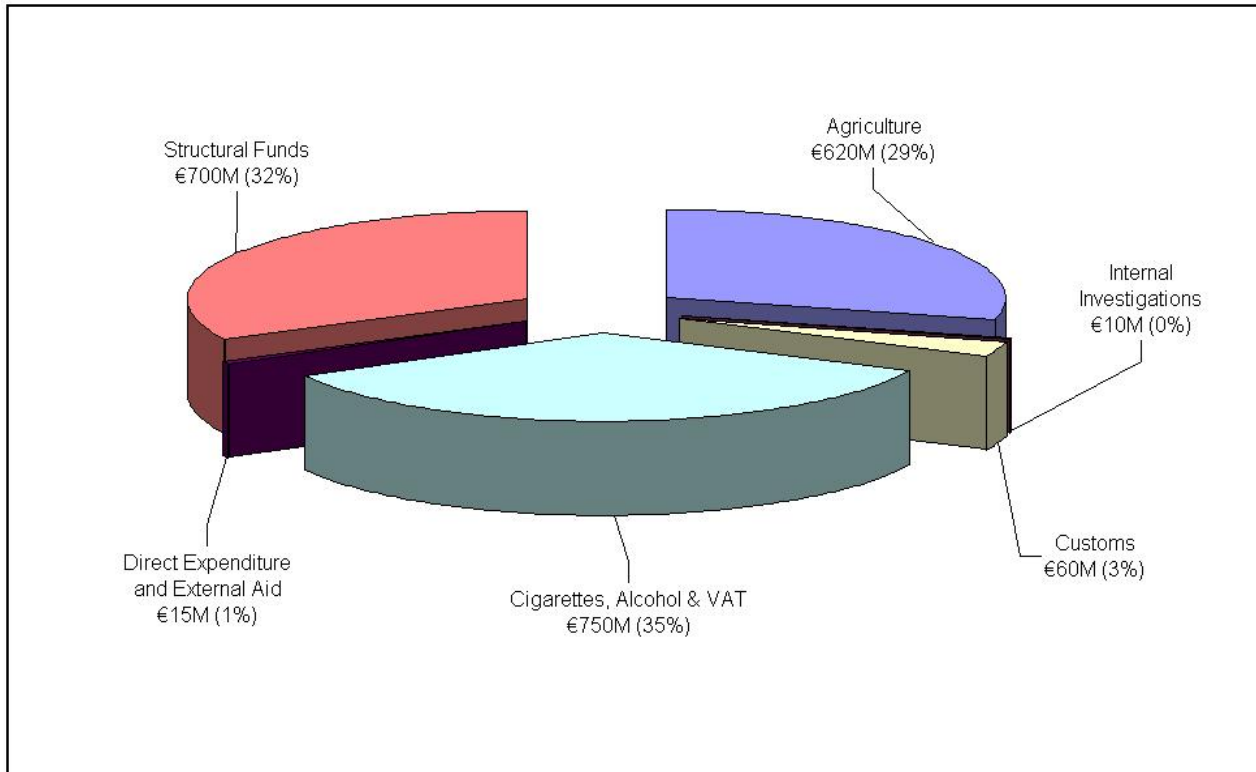
Figure 37 shows the open follow-up activities in respect of these 714 cases.

Figure 37. Type of Follow-up activities of closed cases at the end of 2005



The financial impact of the 714 cases in follow-up at the end of 2006 amounts to more than €2 billion. Figure 38 shows a breakdown of the estimated financial impact by sector:

Figure 38: Financial Impact of Cases in follow-up at the end of 2005 (714 cases)



Financial recovery has reached a new peak with the completion of the recovery of €203 million during 2005. Figure 39 shows the annual breakdown of financial recovery completed in the last 4 calendar years.

Figure 39: Breakdown of amounts recovered in € million in each calendar year

OLAF Sector	Amounts Recovered 2002	Amounts Recovered 2003	Amounts Recovered 2004	Amounts Recovered 2005
Agriculture	0.000	0.000	0.065	13.955
Customs	0.000	0.035	1.578	62.949
Direct Expenditure	0.055	0.348	1.975	0.161
External Aid	0.005	0.826	2.010	31.773
Internal Investigations	0.000	0.000	0.038	0.000
Structural Funds	0.726	1.469	192.584	94.561
<b>Total</b>	<b>0.787</b>	<b>2.679</b>	<b>198.250</b>	<b>203.399</b>

## 4.2. Judicial and disciplinary follow-up

After completion of the investigation, OLAF draws up a final case report, specifying the facts established, the financial loss, if any, and the findings of the investigation. Whenever the investigation report recommends disciplinary and/or judicial follow-up, the file is transferred to the national judicial authorities or the relevant Institution's disciplinary authorities.

In those cases in which a judicial proceeding is opened, it is the responsibility of OLAF to assure the follow-up of the case, in order to support and assist the national judicial authorities where appropriate, and to monitor the development of the case until it is finalised.

Once the different procedural phases are completed and the decision adopted by judicial authorities becomes definitive, OLAF closes its judicial follow-up. Often, this is many years after the initial

investigation by OLAF (or its predecessor UCLAF) was initiated. This is an important activity, because it allows the Office to record the final outcome of its work and to learn any lessons from the case in question.

In relation to internal cases, OLAF has to maintain contact both with the disciplinary services of the different Institutions and with other European bodies and agencies. OLAF is available to assist these services in disciplinary proceedings, and monitors the outcome of the cases for the same reasons as it monitors judicial proceedings.

Finally, in those situations in which the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a coherent approach by liaising with both authorities.

#### 4.2.1 Judicial follow-up

In 2005 43 closures concerning definitive decisions adopted by national judicial authorities were adopted. 9 of these closures were related to cases in which a positive outcome was reached. The rulings adopted in these cases condemned people to different penalties which cover fines and imprisonment, with the maximum in one case of 6 years. In 3 occasions the cases were settled out of the Court.

30 of the closures are related to cases which were dismissed by the national prosecution services or in which the Court decided to acquit the suspected people.

Figure 40 presents judgements made in 2005 and has been separated into 3 types: convictions, transactions and acquittals.

*Figure 40: Summary of judgments received in 2005*

##### *Convictions*

Convictions	Number of actions
Number of convictions	9
People condemned	23
Imprisonment	17
Financial penalties	33

##### *Transactions*

Cases settled out of the Court	Number of actions
Number	3
People concerned	4
Fines	4

##### *Acquittals*

Acquittals	Number of actions
Number of acquittals	6
Lack of evidence	3
No legal basis	3

Figures 41 provide a breakdown of the number of cases dismissed or in which the people suspected were acquitted according to the reason given the relevant national authority. Almost two thirds of dismissals and acquittals were made on the basis of a lack of evidence.

Figure 41: Summary of reasons for case dismissals by Public Prosecution Offices

Reasons	Number of actions
Prescription (out of time)	3
Lack of evidence	14
No legal basis	4
Low priority	1
Ne bis in idem	1
Death of suspect	1
<b>Total</b>	<b>24</b>

Figure 42 shows a summary of cases referred for judicial follow-up in 2005. As indicated in the figure, most follow-up referrals occur upon the closure of the investigative stage of the case but referrals can occur at any stage of a case's history.

Figure 42: New judicial follow-up paths opened in 2005 by sector and stage

Major Sector	Evaluation	Active investigation	Follow-up	Total
Agriculture			14	14
Alcohol				0
Cigarettes		3	4	7
Customs		1	6	7
Direct Expenditure		7	12	19
ESTAT		1		1
External Aid		4	16	20
Internal Investigations	1	4	8	13
Multi Agency Investigations			1	1
Structural Funds		3	20	23
Trade			1	1
VAT		7	3	10
<b>Total</b>	<b>1</b>	<b>30</b>	<b>85</b>	<b>116</b>

*Case study: An example of cooperation and assistance to judicial authorities: the « Lesotho case »:*

OLAF's previous Activity Report described how the Public Prosecutor of Lesotho had prosecuted a senior national official involved in a major case of corruption concerning some important water engineering works in that country funded by the World Bank, the EU and other sources. Work on this case continued during the period covered by the present Report.

OLAF assisted the Lesotho Public Prosecutor in contacting a public prosecutor in a Member State, and in obtaining access to a substantial quantity of documentation held by him which had been produced during investigations into corruption between 1992 and 1995. This documentation showed that the management of the firm under investigation in Lesotho had been prosecuted – and in some cases convicted – for serious corruption in that Member State.

The next step was to ensure that the statement by the public prosecutor in a Member State could be used as evidence during the criminal proceedings in Lesotho. The key issue was to reconcile a common law system (the South African law applied in Lesotho) with a civil law system in this practical case. The public prosecutor in a Member State agreed to a declaration drafted in close cooperation with OLAF. This statement, translated into English, was employed in the criminal proceedings currently taking place in Lesotho

### *Judicial follow-up case study: control of sugar regime*

In order to control sugar production and minimise surpluses and storage, the European Union has a system of quotas and sets guaranteed national amounts. Quotas known as “A sugar” and “B sugar” reflect the maximum guaranteed amounts for production assigned to the Member States and distributed by Member States to sugar producers. If these amounts are exceeded, the excess production is known as “C” sugar on which the producer must pay a penalty.

In the marketing years 1996-1997, 1997-1998 and 1998-1999, two companies from one Member State devised a plan to conceal sugar surpluses and so to avoid these being classified as C sugar. This plan consisted of recording numerous sugar transfers between factories and warehouses of the same company. These transfers were in fact wholly fictitious and existed only in the accounts. This deceit involved numerous misleading statements such as the concealing of sugar surpluses, the creation of false transport documents and of false storage certificates and the submission of fake documentation to official bodies.

Following an investigation by the relevant national Anti Corruption Prosecution Office and a trial lasting more than five months, eleven individuals were sentenced to terms of imprisonment varying between 21 months and nine years for fraud against the EC budget and for forgery. The total terms of imprisonment summed to 62 years. The fines imposed on the two companies concerned and on individuals, including those sentenced to terms of imprisonment, and exceeded €27 million. The sentence is under appeal.

#### **4.2.2 Judicial monitoring cases**

OLAF receives information related to cases which have been opened by national judicial authorities. OLAF may decide not to conduct any operational activity but will nevertheless open a case to “monitor” the development of the proceedings conducted in the Member State. A 'monitoring case' will be opened.

Figure 43 shows the number of monitoring cases of this type opened in 2005.

Figure 43: New monitoring cases opened with judicial authorities during 2005

Major Sector	Monitoring case
Agriculture	12
Alcohol	0
Cigarettes	0
Customs	0
Direct Expenditure	1
ESTAT	0
External Aid	12
Internal Investigations	0
Multi Agency Investigations	0
Structural Funds	12
Trade	0
VAT	0
<b>Total</b>	<b>37</b>

*Judicial follow-up case study: evasion of anti-dumping duties*

In 1999, UCLAF opened a case of a suspected evasion of anti-dumping duties on Chinese silicon metal imported into the Community via a third country. The goods were described on importation as originating in the third country. However, evidence was found that the silicon metal was in reality of Chinese origin and subject to an anti-dumping duty of 49%.

After closure of the case in 2004 a judicial follow-up of the criminal procedures which had been initiated in two Member States was carried out.

OLAF was informed in 2004/2005 that in one Member State a representative of the import company had been convicted to a prison sentence of three years for smuggling and that in the other Member State the proceedings had been closed by the competent court since it could not be proved that the suspects had intentionally submitted incorrect customs declarations.



### *The Third Conference of Fraud Prosecutors*

The strengthening of the penal dimension of fighting fraud constitutes one of the major challenges for OLAF. For that purpose, OLAF works to reinforce the contribution made by national public prosecutors to combat any criminal offence against the financial interest of European Union. In order to achieve this, OLAF has developed further contacts and participated in meetings with the European Judicial Network. OLAF has also continued to consolidate the flexible and informal operational network of Prosecutors which held its third annual conference in November 2005.

The Third Conference brought together 70 prosecutors from over 25 European and other countries to explore ways in which they could cooperate together in the fight against fraud and corruption. A number of case studies were presented to make the participants more aware of the nature of fraud in the agricultural and commercial trade areas and to show how OLAF conducts investigations and can assist the national authorities in these areas. Eurojust was invited to chair the session on VAT fraud which highlighted the way in which OLAF and Eurojust can assist the member states in combating the massive VAT carousel fraud problem.

#### **4.2.3 Disciplinary follow-up**

Once the internal investigation is closed, the Final Case Report may contain some recommendations regarding the opening of the disciplinary proceedings by the relevant authority. In such cases OLAF follows-up the development of the case.

Figure 44 shows that at the end of 2005 OLAF had 32 cases with disciplinary follow-up.

*Figure 44: Disciplinary Follow-up Summary*

<b>Stages</b>	<b>Total</b>
<b>Review</b>	<b>6</b>
<b>Report sent to Disciplinary authority</b>	<b>3</b>
<b>Disciplinary Procedure</b>	<b>19</b>
<b>AIPN Decision</b>	<b>3</b>
<b>End of Proceedings</b>	<b>1</b>
<b>Appeal</b>	<b>0</b>
<b>Total</b>	<b>32</b>

## **5. ENLARGEMENT**

### **5.1. The Multi-Country PHARE Programme (MCP)**

Between August 2004 and December 2005, some 74 separate training actions were launched under the MCP. These included seminars, workshops and round tables. In addition to study visits and secondments to OLAF by AFCOS staff, officials of the new Member States and candidate countries continued to carry out work placements in counterpart institutions in the original 15 Member States to gain experience of best practice. The number of participants ran to many hundreds from each country. Several new training events were introduced into the programme across the new Member States and the candidate countries.

Apart from these actions, other activities were funded under the MCP such as the provision of technical assistance of 10 months in some new Member States and Candidate Countries (Latvia, Hungary, Slovak Republic and Romania). The assistance aimed at strengthening the administrative and operational capacities of the AFCOS services.

### **5.2. The Bulgaria – Romania Network Agreement (BGRONA)**

The Commission adopted the multi-country PHARE programme (Fight against Fraud affecting the Financial Interests of the EU) specifically for Bulgaria and Romania in October 2004 with a budget of € 1.5 million. It foresees a number of training actions to be carried out by OLAF and framework contractors, as well as the organisation of work placements for Bulgarian and Romanian officials in the Member States until the end of 2007. The training actions have been planned. The first events are scheduled for early February 2006 and the programme of training events will then roll out until the end of 2006. However, placements within OLAF and the Member States are likely to go on well beyond this time.

## 6. COOPERATION WITH OLAF'S PARTNERS IN THE FIGHT AGAINST FRAUD

### 6.1 Consultation with the Member States

The Commission adopted Decision 2005/223/EC, which amended the previous legislation dating from 1994 setting up an advisory committee for the coordination of fraud prevention. The new Decision takes account of the requirements of Article 280 of the EC Treaty and the creation of OLAF in 1999 and includes provision for a consultation procedure in the area of the system of protection of the Euro (coins and banknotes).

The consultation of Member State experts is consequently now structured as in the table below:

*Figure 45: Structures for consultation*

Committees/working-groups where OLAF represents the Commission
• <b>COCOLAF (Advisory Committee for the Coordination of Fraud Prevention):</b>
• Article 280 working group
• Irregularities and Mutual Assistance- Agricultural Products - Group
• Group on risk analysis on fraud and irregularity
• <b>ECEG (Euro Counterfeiting Experts Group)</b>
• <b>CCEG (Counterfeit Coin Experts Group)</b>
• <b>OLAF Anti-Fraud Communicators Network (OAFCN)</b>

In year 2005 COCOLAF and its sub-groups held a total of 7 meetings and the expert groups on Euro counterfeiting (ECEG) and counterfeit Euro coins (CCEG) held 4 meetings each.

### 6.2. Mutual Administrative Assistance with Third Countries

A structured and legally-sound basis for mutual administrative assistance in customs matters remains an important element of the EC's external commercial policy. Implementation of the mechanisms for such cooperation, agreed in EC customs cooperation agreements or in protocols to trade agreements, is indispensable to the defence of legitimate commercial interests.

Two international agreements with significant mutual administrative assistance implications for the good conduct of trade affairs, with India and China, came into force in 2005. Negotiations continued with Japan. OLAF continues to be engaged in the implementation formalities of these arrangements. In addition, OLAF has helped to assure the inclusion of specific anti-fraud provisions in textile trading arrangements with China, Serbia and Belarus and has been involved in ongoing negotiations with a number of other countries and regional groupings.

## **Fraud-proofing**

OLAF's operational experience and expertise can be used upstream in the Commission's legislative work.

A dedicated fraud proofing mechanism gives Commission departments access to this expertise at an early stage of the preparation of the legislation in order to make legal instruments more "fraud proof".

In 2005, seventeen legislative and non legislative proposals were submitted to OLAF. Six of these proposals had been identified for fraud-proofing at the beginning of 2005 and a further eleven proposals were submitted to OLAF during the year at the request of Commission services. Seven proposals related to agriculture, three to "horizontal" or cross-cutting issues, two to Customs and trade policy and to direct expenditure, and one to each of external policy, structural actions, and contracts.

### *Example: fraudproofing*

On the basis of its operational experience OLAF assessed that the administrative sanctions on irregularities in tender and grant procedures provided for in the Financial Regulation (general budget) needed clarification. These measures are important from a fraud prevention point of view. They provide among other things for the exclusion of unreliable economic operators from procurement procedures and for administrative penalties. OLAF made recommendations to the lead Commission service which are being taken into account in the legislative process.

## **6.4. Cooperation with bodies in charge of police and judicial cooperation**

### **6.4.1 Eurojust**

OLAF has devoted substantial efforts to making its cooperation with Eurojust more efficient. Cooperation began immediately after the creation of Pro-Eurojust in 2001. One of Eurojust's competencies is to work in the field of fraud and corruption and any criminal offence affecting the European Community financial interests. This competence implies the possibility of overlap with OLAF, which needs to be avoided by creating a working framework based on good cooperation between both services. The Decision establishing Eurojust indicates that it "shall establish and maintain close cooperation with OLAF. To that end, OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation".

At the end of 2004 Eurojust and OLAF set up a common Liaison Working Group further to enhance cooperation in relation to cases of common interest. The system by which the Memorandum of Understanding signed in April 2003 is implemented came into effect in 2005. The main idea is to select cases of common interest and to discuss them on regular and scheduled basis. This pragmatic approach enables OLAF and Eurojust to find better solutions for working together.

Four such operational meetings took place during 2005. During these meetings OLAF provided Eurojust with information about cases in different areas that OLAF covers: four cases concerning smuggling of cigarettes, four cases affecting agricultural products imported to the European Union, one case related to the VAT area, one case concerning direct expenditure and two cases involving internal investigations. OLAF has hosted Members of Eurojust in the context of an exchange programme and OLAF staff will similarly spend time in Eurojust in order to increase mutual understanding.

In December 2005, the Director General of OLAF and the President of Eurojust met in The Hague for the annual review of cooperation foreseen in the Memorandum of Understanding.

#### **6.4.2. Europol**

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol.

OLAF and Europol have begun working together in relation to combating cigarette smuggling. The analytical means of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid the unnecessary duplication of effort.

In 2005, work has been undertaken to improve the general information exchange between the two organisations. This activity has also highlighted the existing limits to such exchanges. However both bodies intend to renew their efforts to exploit further the operational potential of cooperation.

#### **6.4.3. United Nations**

OLAF's operational experience is also exploited through OLAF's contributions to international events related to the fight against fraud and corruption.

The UN invited OLAF to carry out a peer review of the Investigation Division of the Office of Internal Oversight (OIOS) of the United Nations. In the review report OLAF made a number of recommendations for improvements in the operational procedures within the Investigation Division. On 20 October 2005 a cooperation agreement was concluded between the OIOS of the United Nations and OLAF which among other things provides that the parties cooperate in the field of information exchange and technical support by consulting regularly, engaging in training, developing policy initiatives and providing mutual assistance, either spontaneously or upon request, with a view to promoting effective co-ordination of their respective activities.

#### **6.5. Protection of the Euro**

OLAF continues to coordinate Member State efforts to protect the Euro against counterfeiting. Quarterly meetings of the Euro Counterfeiting Experts Group bring together experts from the competent national authorities, judiciary, financial authorities and the central banks of the Member States and accession countries, as well as Europol, the European Central Bank and Interpol.

During the reporting period, OLAF continued to manage the Pericles programme for the exchange, assistance and training for the protection of the Euro against counterfeiting. More than €0.9 million was committed to 12 projects initiated by Member States and by the Commission/OLAF during 2005. These projects were implemented with the participation of Member States, third countries, OLAF, the European Central Bank and Europol.

The Commission (OLAF) promoted a number of legal initiatives for the protection of the Euro. The Commission Decision of 29 October 2004 established the European Technical and Scientific Centre (ETSC) within OLAF for the analysis and classification of counterfeit coins. The Council adopted a Regulation on medals and tokens similar to Euro coins on 12 December 2004, aiming to prevent fraud and confusion in distinguishing between such objects and genuine Euro coins. On 27 May 2005 the Commission adopted a Recommendation concerning the authentication of Euro coins and the handling of Euro coins unfit for circulation. On 30 January 2006 the Council adopted the Decision, proposed by the Commission in April 2005, to prolong Pericles for the year 2006.

The ETSC continued to analyse counterfeit coins and to compile statistics. The statistics indicate an increase in the counterfeiting of Euro coins identified, which reached 96,000 in 2005, as well as a higher degree of sophistication. Technical activities for the protection of Euro coins against counterfeiting are coordinated by OLAF through quarterly meetings of the Counterfeit Coin Experts Group.

## **6.6. External training.**

The Office organised and fully financed three conference events in 2005:

- § the Second Conference on Fraud Aid Funds (Brussels, 6<sup>th</sup> – 7<sup>th</sup> October);
- § the Fifth Training seminar of the OAFCN (Brussels, 28<sup>th</sup> October);
- § the Third EU Conference of Fraud Prosecutors (17<sup>th</sup> – 18<sup>th</sup> November).

Some 370 participants attended.

The Commission (OLAF) co-financed nine seminars in the framework of the anti-fraud training programme Hercule during the reporting period:

- § 27-29 September 2004, EUROCANET Project: Implementation of European network between seven Member States to control companies suspected of illegal activity in the value added tax carousel fraud;
- § 4-8 October 2004, International Anti-Fraud meeting for auditors from Member States, Candidate Countries, Croatia, Switzerland, Belarus and the Russian Federation, in the field of Regulation 4045/89 and the EAGGF<sup>6</sup>. Pörtschach, Austria;
- § 18-21 October 2004, Seminar to promote and reinforce the exchange and dissemination of information, experiences and good practice between customs and territorial controls relative to the illegal tobacco traffic. Madrid, Spain;
- § 29 Nov-1 Dec. 2004. The practice of combating money laundering in the context of EU membership. Pila, Poland;
- § 10-12 January 2005 International seminar on the fight against corruption and fraud with regard to the Communities financial interest. Lisbon, Portugal;
- § March – May 2005 Anticorruption training for middle and top management of Regional Authorities in the Czech Republic.
- § 11-13 April 2005 International Anti-Fraud Meeting and training meeting for Member States, Candidate Countries, Switzerland and Croatia in the field of VAT. Pörtschach, Austria;

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<sup>6</sup> European Agricultural Guidance and Guarantee Fund

§ 15-16 April 2005 Fight against money laundering in the Balkan region – cooperation between the administrative authorities of the EU Member States and the Non-Member States. Athens, Greece;

§ 21-22 April 2005 EU Seminar on cigarette smuggling. Alicante, Spain.

1,123 people attended these conferences in total.

## **6.7. Information and communications as a means of fraud prevention**

OLAF and its operational partners are convinced that information and communication must continue to be used as a means of preventing and combating fraud and corruption. Therefore OLAF supports its operational independence with its own information and communication strategy. The latter has to be implemented in a manner which respects the Office's obligation to safeguard investigations and to respect the fundamental rights of the individual, within the constraints prescribed by international, Community and national law. During the reporting period, the Office has maintained its firm line of balancing these interests.

The Office handled nearly 600 requests from the media during the reporting period. These included press briefings, written and oral replies to press questions, referrals to members of the OLAF Anti-Fraud Communicators Network (OAFCN) and assistance to the Commissioners' spokespersons. Additionally, the Office published 18 press releases of its own and contributed to several others of the Commission.

OLAF intensified its dialogue with journalists and their trade associations by organising, together with the International Federation of Journalists (IFJ), a joint seminar on "Building mutual trust between anti-fraud services and journalists" for members of the OLAF Anti-Fraud Communicators' Network (OAFCN). The IFJ summarised the event as "a ground-breaking discussion between journalists' leaders and European anti-fraud investigators".

With the support of the OAFCN partners OLAF published a booklet entitled "Deterring Fraud by Informing the Public". This booklet was the outcome of an OAFCN Round Table on Anti-Fraud Communication that had been created on the OLAF website. OLAF also produced a DVD on the same topic. Both communication tools were widely distributed, among others, to universities and schools of journalism.

In 2005, for the first time, an OLAF-partner service, the Serious Fraud Office (SFO) hosted an OAFCN meeting on its own. 46 participants from EU Member States and Candidate countries attended the event on 19 April in London. The second annual OAFCN meeting was held in Brussels, on 27 October 2005.

## **6.8. Public relations**

In 2005 a total of 75 visits to the Office were organised, involving over 1,000 people in total, mainly from customs, investigation services and public prosecutors offices from Member States and other countries. Additionally, delegations were welcomed to OLAF from a variety of public bodies, including:

- The European Central Bank;
- Eurojust;
- The Dutch Court of Auditors;
- The Public Accounts Committee of the House of Commons (UK)
- The Select Committee on the Application of the Anti-Corruption Act of the Estonian Parliament;

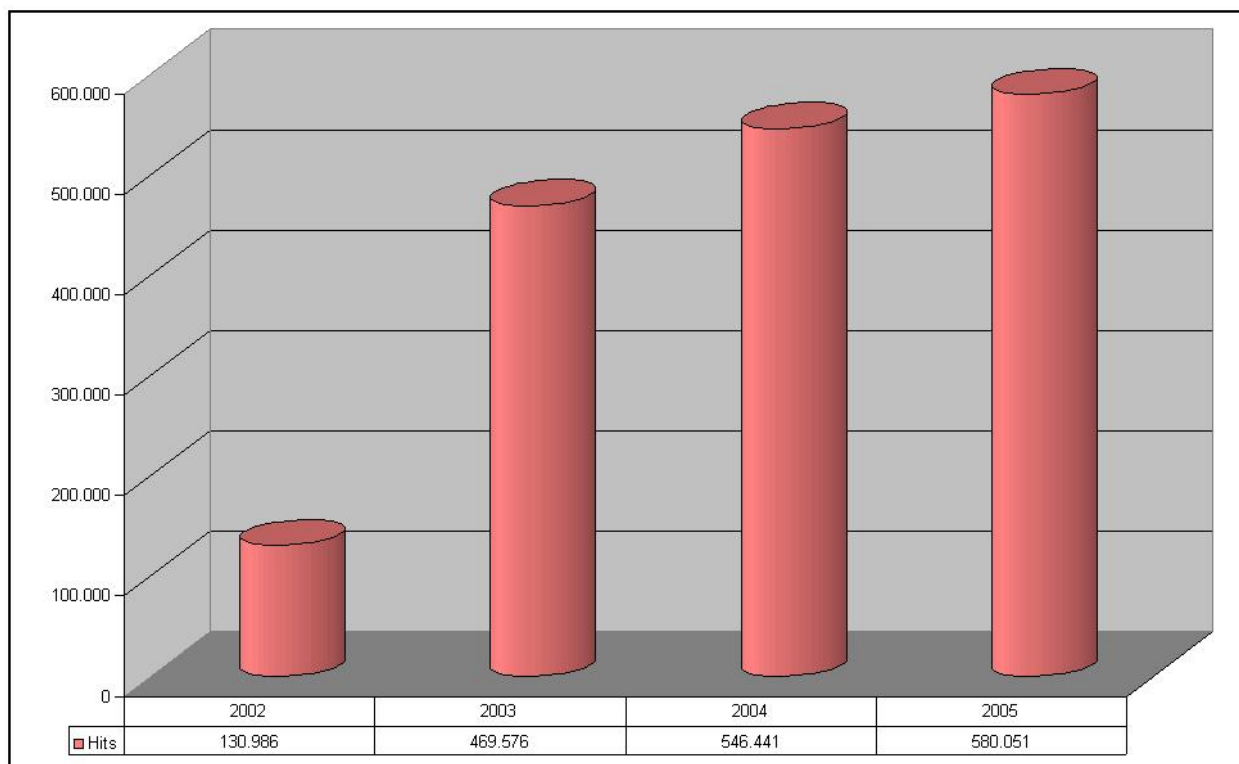
- The Director General of the Swedish Economic Crime Bureau;
- The Board of Economic and Financial Investigation of the French Central Criminal Police;
- The Chinese Ministry of Supervision;
- Heads of the Finnish Prosecution Service;
- The Romanian Financial Guard Board.

OLAF officers participated in 130 anti-fraud training sessions which were organised externally and responded to many information requests from the general public.

## 6.9. OLAF website

The OLAF Website continued to be the basic tool of the communication and information policy of the Office. It is also the portal to information concerning OLAF’s co-operation with partner services in the framework of the OLAF Anti-Fraud Communicators’ Network (OAFCN). The number of hits has constantly risen since its first installation. The main pages of the OLAF site (index, pressroom, mission, OAFCN, freephone) are available in all official languages. The site has been made more easily accessible for disabled citizens.

*Figure 46: Annual hits on the OLAF Website*





## **7. ADMINISTRATION**

### **7.1. Human resources**

In February 2005, an agreement was negotiated with the Staff Representatives of the Commission on staffing matters relating to OLAF. This agreement enabled OLAF to adopt a specific framework decision for the employment of Temporary Agents specialised in the fight against fraud within the Office and to launch a selection procedure for the recruitment of additional staff of this kind. Recruitment is likely to begin towards the end of 2006.

The length of time needed to complete the procedures for the appointment of the Director and of the new Supervisory Committee both delayed the adoption of major decisions related to the organisation and staffing of the Office.

There was therefore little change in the number of posts vacant through the year. However, OLAF was able to recruit 22 officials from the new Member States by drawing on the reserve lists of general competitions.

During the reporting period, 22 individuals left OLAF and 51 joined. On 31 December 2005, OLAF employed 290 “statutory” members of staff, compared to 278 twelve months earlier. A further 100 persons were employed as “external” staff, in the form of national experts, auxiliary staff and contract agents, and “intramuros” contract staff. As in previous years, financial appropriations which were originally earmarked to finance statutory posts have been employed to recruit a number of external staff on a short-term basis, as it was not possible to recruit statutory staff (i.e. officials or temporary agents).

### **7.2. Internal training**

During the reporting period OLAF took measures both on the structure and substance of training.

OLAF prepared its first Strategic Training Framework (STF). This document is complementary to the Commission STF and takes into account the specific nature of the Office. The document outlines the present training organisation, gives a summary of the past year and an overview of the planning and the ongoing activities for 2005. A new structure introduced in July brought together different training tasks which had previously been separated. A training network was established in order to improve the internal communication and co-ordination of training activities and to focus more clearly on the training needs and internal resources. A framework contract to cover OLAF training was signed early in 2005, enabling OLAF to engage external trainers for specific training needs.

The content and substance of OLAF training has also changed. Attention has been focused on newcomers, on the OLAF Manual and increasingly on the need of investigators, including specialised language training concentrating on juridical and technical terms, and interviewing techniques.

### **7.3. Budget**

While title 24 of the European Commission's budget includes OLAF total Budget, OLAF's administrative budget is described in annex COM III to the budget. Figure 47 outlines the areas of expenditure within this budget.

Figure 47: Development of the OLAF administrative budget, 2002 to 2005

Item	Budget 2002	Budget 2003	Budget 2004	Budget 2005
Personnel	19.3	23.4	26.7	25.2
Extra personnel	4.7	4.6	5.0	6.2
Furniture/infrastructure	7.8	7.7	8.6	10.5
Anti-fraud actions	1.7	1.9	2.0	1.2
Supervisory Committee	0.2	0.2	0.2	0.1
Lawyers associations	0.4	0.4	n/a	n/a
<b>Total</b>	<b>34.1</b>	<b>38.2</b>	<b>42.5</b>	<b>43.2</b>
Percentage committed	95.00%	97.00%	93.48%	99.85%

Since 2004, OLAF's operational budget has been allocated in Title 24 of the European Commission's budget. The distribution of expenditure is shown in Figure 48.

Figure 48: Development of the OLAF operational budget, 2002 to 2005

Budgetary line	Budget 2002	Budget 2003	Budget 2004	Budget 2005
24.0201 General anti-fraud measures	5.5	5.1	3.3	2.4
24.0202 Pericles	0.6	0.9	1.0	1.0
24.0203 Anti-fraud information system (AFIS)	2.6	3.8	4.3	4.8
24.0204 Hercule (lawyers associations included from 2004 on)	n/a	n/a	3.9	3.9
<b>Total</b>	<b>8.7</b>	<b>9.8</b>	<b>12.5</b>	<b>12.1</b>
Percentage committed	96.79%	95.20%	92.25%	94.40%