

# Report of the European Anti-Fraud Office

## Summary version

**Eighth Activity Report  
for the period 1 January 2007 to 31 December 2007**



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Luxembourg: Office for Official Publications of the European Communities, 2008

ISBN 978-92-79-09125-4  
DOI 10.2784/17798

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*Printed in Belgium*

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## Executive Summary



- OLAF again experienced a significant increase in the amount of information received (up 59% since 2003 and up nearly 8% since 2006), in particular from Member States and individual informants, which confirms public confidence in OLAF.
- OLAF tends increasingly to concentrate on its own investigations, rather than simply providing assistance to national authorities. In 2007, more cases were closed with follow-up recommendations than without for the third consecutive year, with a two-to-one ratio.
- A significant share of OLAF's new case records relates to a small number of countries: Approximately 60% of all new case records created in 2007 originated in 5 member states (Belgium, Bulgaria, Germany, Italy and Romania). In proportion to population, and with the exception of Belgium and Luxemburg, the highest occurrence of cases was to be found in Bulgaria, followed by Romania and Greece.
- OLAF continued to prioritise its resources to focus increasingly on serious cases, as demonstrated by the fact that 65% of cases were closed with follow-up in 2007, compared with less than 45% before 2004.
- A policy of 'zero tolerance' for fraud and corruption does not necessarily mean that OLAF has to take on board all cases where other mechanisms exist to deal with less serious matters. Priority continues to be given to the consideration of information in respect of which OLAF has a clear mandate.
- The general caseload of the Office is under control so as to avoid building a backlog of cases. The clearance rate – the ratio between the numbers of cases opened and closed - is close to 1 over time, in line with OLAF's operational strategy.
- Cases assessed and opened by OLAF are of an increasing complexity. In 2007, the average "active stage" duration increased slightly from 27 to 28 months.
- The achievement of this long term target must take account of wide differences between types of investigation and areas concerned. However, some detailed indicators already demonstrated positive developments could be expected in the coming months.
- Cooperation with the Member States, other institutions and third countries remains essential to ensure the success of investigations and remained a key concern to OLAF, which strengthened its ties with operational partners on numerous occasions.
- In 2007, OLAF provided assistance to five joint customs operations (JCO), during which the customs authorities of the participating Member States brought to light a large number of serious offences.
- A second agreement was signed with a cigarette manufacturer, Japan Tobacco International, in order to combat cigarette smuggling and prevent loss of revenues for the European Budget.
- Relations with Eurojust and Europol have strengthened.
- In 2007, the main focus of networking efforts of OLAF was put on Africa, with events such as the first Conference on the "protection and optimisation of public funds", held in Rabat, Morocco.
- As of 31 December 2007, 467 persons were working in OLAF. The ratio of permanent staff rose from 46% in 2006 to 62% in 2007.
- The administrative budget of OLAF in 2007 was €52 million.

- The operational budget, which funds anti-fraud activities in the Member States, almost doubled compared to 2006 at € 20.6 million. This increase is mainly due to the entry in force of the Hercule II Programme.
- A higher level of stability for the staff was achieved, through the granting of indefinite contracts to many temporary staff and the agreement reached with the Commission and the staff associations about longer term staffing strategy.
- In 2007 OLAF achieved full notification of all its processing operations to the European Data Protection Supervisor, making a significant progress to implement data protection rules.

## Foreword

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The principal trends in this, OLAF's eighth annual activity report, are consistent with those of recent years; an increase in the volume and the quality of information received, indicating more visibility and greater public confidence in OLAF; more emphasis on significant and complex cases, where OLAF can add real value and sometimes break new ground; a greater proportion of cases undertaken by OLAF as lead investigator, rather than in support of national authorities; and a greater proportion of cases with significant recommendations for follow-up. Also as in previous years, I am happy to report that OLAF's activities again have led to the recovery of sums of taxpayers' money equivalent to several times the annual cost of running the Office.

This process has been achieved through cooperation with OLAF's many partners and notably with the other services of the Commission. 2007 saw a landmark in the development of operational cooperation between OLAF and other Commission services in the form of an improved range of services provided by OLAF in areas such as, financial follow-up, fraud prevention and awareness raising. Several targeted intelligence projects were launched for the benefit of these Commission services. A new bottom-up approach to fraud prevention was adopted, and there was a shift of responsibility for financial follow-up from the Office towards the authorising services of the Commission, on the lines recommended by the European Court of Auditors.

A successful and well-attended conference in October enabled both OLAF and the Commission services with which it works most closely (those responsible for some of the Commission's most significant expenditure programmes) to demonstrate the extent to which their mutual operational cooperation can make real progress in the fight against fraud. This was further confirmed by the results of a Commission-wide internal survey which showed that a vast majority of the Commission's staff considers OLAF a pillar of trust.

The accession to the EU of two new Member States in January 2007 led to further intensification of OLAF's existing activities in those countries. I look forward to even closer co-operation with the Romanian and the Bulgarian authorities in the fight against fraud affecting the EU financial interests. OLAF has in addition strengthened its working relations with partners in international institutions such as the United Nations and the World Bank, as well as with its partners in the EU's agencies and bodies and in third countries. A first international conference in Rabat, specifically organised for the countries in French-speaking Africa engaged in development co-operation with the EU, has led to several concrete agreements that will facilitate OLAF's future operational work on the ground.

2007 also saw the conclusion of an agreement between the Commission and a second major international cigarettes manufacturer, achieved largely on the basis of operational work by OLAF. This follows a ground-breaking earlier agreement in 2004 with another producer and will similarly contribute to a more effective fight against cigarette smuggling in Europe and beyond.

Within OLAF, I am pleased to report that the re-organisation which was implemented in 2006 has proved effective. This gives greater weight to the operational role of OLAF and took account of the recommendations of the European Court of Auditors. We have started to reap the reward of these changes.

While we have continued to invest in particular in the security of information, data protection and operational support to Member States, people are our most valuable asset. Two Directors were appointed to operational posts during the year. As I anticipated in my foreword to last year's report, early in 2007 an agreement was reached between the Commission, the Staff Associations and OLAF which has permitted to offer indefinite contracts, after a screening process, to many of its long-standing temporary staff. This avoided a loss of expertise and experience which would seriously have damaged OLAF's operational capacity. The process of ensuring that OLAF can recruit and retain sufficient qualified and experienced staff will continue with specialist recruitment competitions for officials in 2008.

I am grateful to everybody who contributed to all OLAF's achievements in 2007.

A handwritten signature in black ink, appearing to read 'Franz-H. Brüner', with a stylized flourish at the end.

**Franz-H. Brüner**  
Director-General, July 2008

# Table of contents

<b>1</b>	<b>OLAF’S MISSION AND WORKING METHODS.....</b>	<b>9</b>
1.1	MISSION STATEMENT .....	9
1.2	THE MAIN COMPETENCIES OF OLAF.....	9
1.3	OLAF’S RESOURCES.....	9
1.4	THE CASE MANAGEMENT SYSTEM .....	10
1.5	THE INVESTIGATIONS AND OPERATIONS EXECUTIVE BOARD .....	10
<b>2</b>	<b>OLAF’S WORKLOAD.....</b>	<b>11</b>
2.1	MORE INCOMING INFORMATION CONFIRMS PUBLIC CONFIDENCE IN OLAF .....	11
2.2	OPERATIONAL ACTIVITY: PRIORITISING AND FOCUSING ON CORE BUSINESS .....	11
2.3	FOLLOW-UP ACTIVITY.....	14
2.4	RECOVERY .....	15
<b>3</b>	<b>OLAF’S ADDED VALUE: SOME CASE STUDIES.....</b>	<b>16</b>
<b>4</b>	<b>COOPERATION WITH OLAF’S PARTNERS: A KEY FACTOR IN THE FIGHT AGAINST FRAUD.....</b>	<b>17</b>
4.1	COOPERATION WITH MEMBER STATES.....	17
4.2	COOPERATION WITH EU BODIES IN CHARGE OF POLICE AND JUDICIAL COOPERATION .....	17
4.2.1	<i>Eurojust</i> .....	18
4.2.2	<i>Europol</i> .....	18
4.3	COOPERATION WITH INTERNATIONAL PARTNERS: RAISING AWARENESS AND BUILDING TRUST .....	18





# 1 OLAF's mission and working methods

## 1.1 Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect the financial interests of the European Union, and therefore of its citizens, and the reputation of the European Institutions. OLAF carries out its duties with integrity, impartiality and professionalism respecting individuals' rights and freedoms.

OLAF's general objective remains **“To protect the financial interests of the European Union against fraud, corruption and any other illegal activities and to protect the reputation of the European institutions.”**

OLAF achieves its objectives by investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions; assisting Community and National Authorities in their fight against fraud; and through deterrence, prevention and stronger legislation, making it more difficult for fraud and irregularities to occur and so contributing to public trust in the European project.

## 1.2 The main competencies of OLAF

- OLAF is empowered to conduct in full independence:
  - **internal investigations.** i.e. inside any European institution or body funded by the EU budget.
  - **external investigations.** i.e. at national level, wherever the EU budget is at stake. For this purpose, OLAF may conduct on-the-spot checks and inspections on the premises of economic operators, in close cooperation with the competent Member State and third-country authorities.
- OLAF has budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes guarantees associated with the post of Director General, and a Supervisory Committee composed of five outside experts providing independent oversight of OLAF's operational activities.
- While OLAF is operationally independent, its staff are also agents of the European Commission and are subject to its internal rules and powers. This concerns activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation.

## 1.3 OLAF's resources

On 31 December 2007 there were 467 persons working in OLAF<sup>1</sup> of whom 333 were statutory staff. Most people are deployed on OLAF's core remit: investigations and operational activity. About 70% of OLAF staff<sup>2</sup> are occupied with tasks related to the Office's operational activity including administrative support for operational activity (63% if administrative support staff are excluded).

OLAF's administrative budget in 2007 was € 52 million. Its operational budget, which funds anti-fraud activities, almost doubled compared to 2006 at €20.6 million. This increase is mainly due to the entry into force of the Hercule II Programme.

<sup>1</sup> Additionally, 60 external contractors were working in OLAF on 31.12.2007.

<sup>2</sup> Approximate figure based on an estimate of the time devoted by each member of staff to a task associated with the Office's operational activity.

## 1.4 The Case Management System

The computerised CMS is the primary source of management information for the Office. It constitutes OLAF's database and contains all information on new, ongoing and closed operational activities. It enables authorised personnel to track the progress of cases at all times during their lifecycle and guarantees the integrity of original documents. All significant events concerning a case are recorded in the CMS.

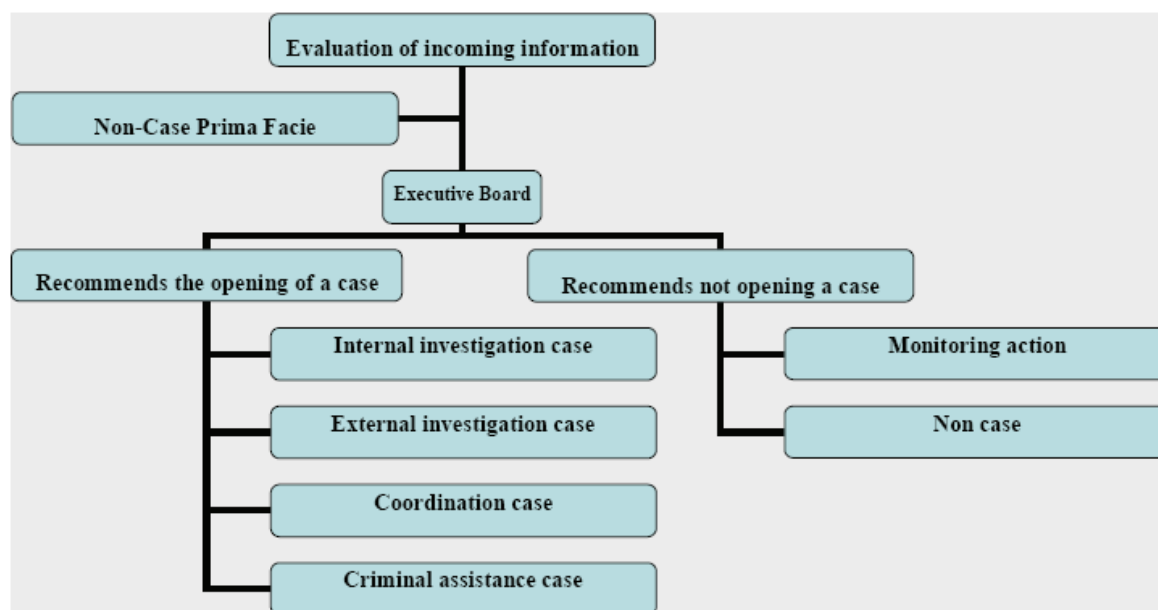
## 1.5 The Investigations and Operations Executive Board

The Investigations and Operations Executive Board (“the Board”) assists the Director General by giving advice on the handling of cases. The Board considers evaluation reports and recommends whether or not a case should be opened. The Director General decides whether to accept the recommendation.

The Board advises the Director General on each major stage in the lifecycle of cases:

- opening decision. *i.e.* internal investigation, external investigation, coordination case or criminal assistance case;
- decisions on “non-cases”;
- changing case types; closure;
- opening new follow-up paths; and
- closing follow-up.

Where relevant the Board is informed of the activities of external investigative, judicial and other partners associated with a case.



Once the operational activity has been completed in an open case in accordance with formal procedures and approved by the Board, the case moves to the follow-up stage<sup>3</sup> if necessary. 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 stage is formally closed and any associated EC entities<sup>4</sup> or other parties are informed of the outcome.

<sup>3</sup> In some circumstances follow-up activities may take place before the formal closure of the investigation stage.

<sup>4</sup> Institutions, bodies, offices and agencies.

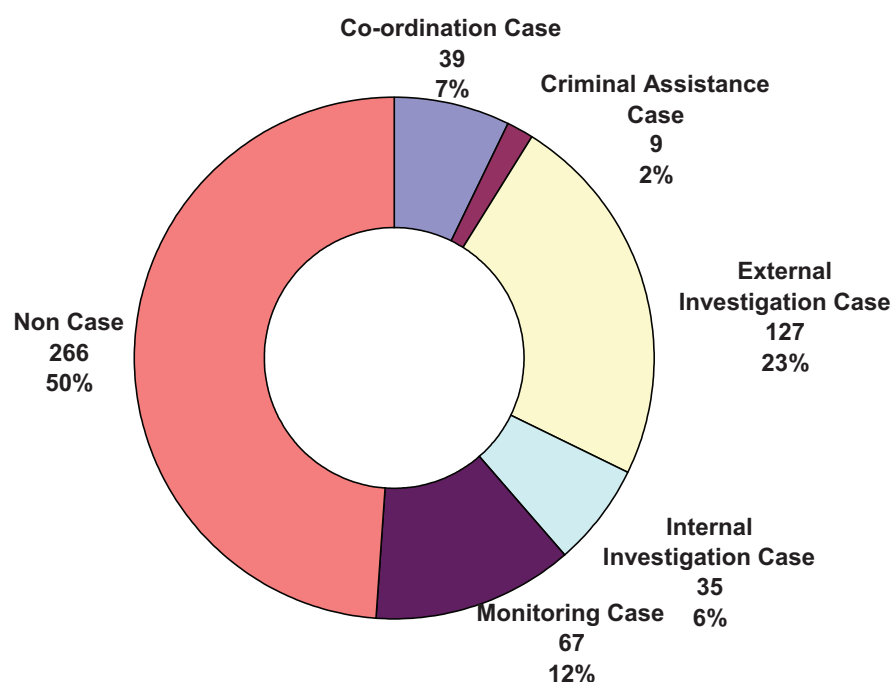
## 2 OLAF's workload

### 2.1 More incoming information confirms public confidence in OLAF

OLAF is increasingly known and trusted to make effective use of information it receives. The volume of information received has risen steadily from 529 new items of information in 2002 to 886 new items in 2007.

In 2007, 543 decisions (up 15% compared to 2006) were taken on the basis of new incoming information. A detailed breakdown by type of case or action<sup>5</sup> is set out below in **Chart A**.

**Chart A: Decisions taken in 2007**



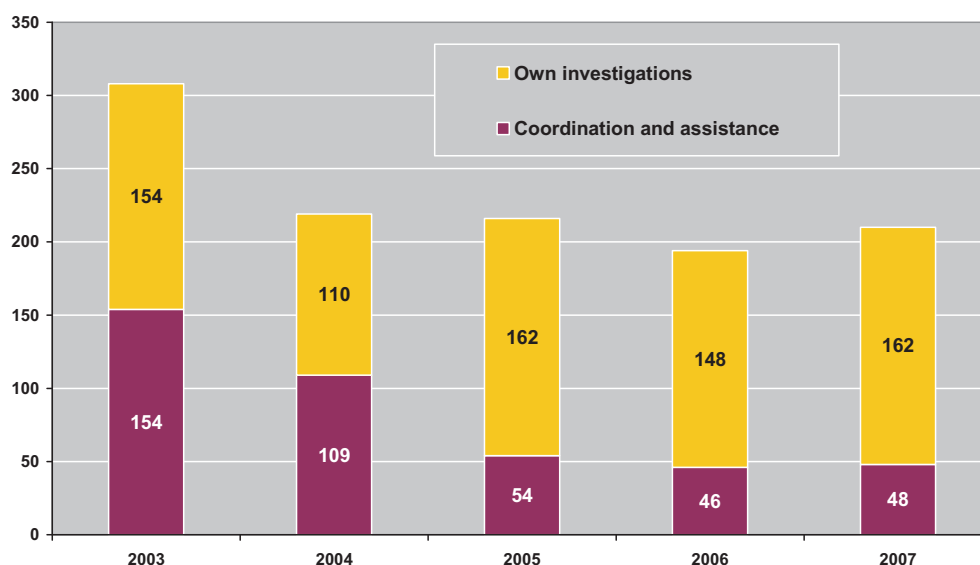
### 2.2 Operational activity: prioritising and focusing on core business

Out of 543 decisions taken, 210, or 38.6%, resulted in the opening of a case, a slight increase compared to 2006. In addition, the proportion of cases closed with follow-up continued to increase, and represented more than 65% of all cases closed in 2007, compared with less than 45% before 2004<sup>6</sup>. These data confirm OLAF's policy to use its resources to investigate the most serious cases. Priority also continues to be given to assessing of information in respect of which OLAF has a clear mandate.

Since 2004, the number of OLAF's own investigations has caught up with and has now overtaken the number of cases in which OLAF assists national authorities (**Chart B**). The trend demonstrates that OLAF's activity has gradually moved towards a 75% share of "own investigations", with only a 25% share of "coordination and assistance cases".

<sup>5</sup> A detailed explanation of the procedures and types of cases and actions can be found in paragraph 1.4 of the full report.

<sup>6</sup> See **Chart 24** in the full report

**Chart B: Number of opening decisions by year and nature of the investigation**

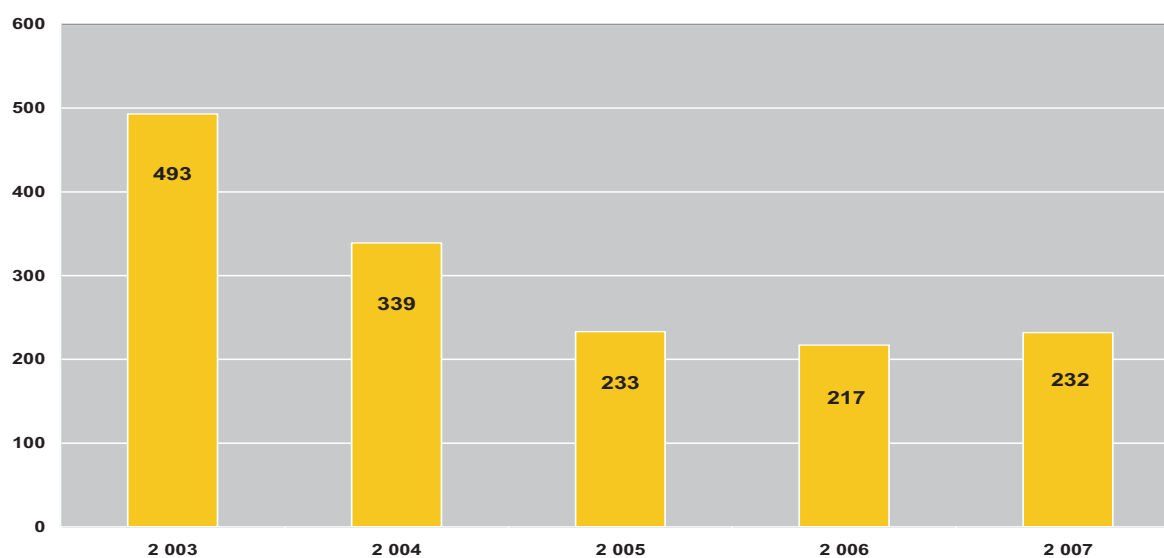
**Chart C** gives a breakdown of the 210 opening decisions adopted in 2007. *Direct Expenditure* and *External Aid* cases represent a growing proportion of the new cases opened by OLAF – up from 30% in 2005 to 36% in 2007. Together with *Internal investigations* (16.6%), these areas of activity, where OLAF is the only authority in charge of the preliminary administrative investigation, represent more than half of the total opening decisions.

**Chart C: Opening decisions taken in 2007 by area and type of decision**

Major Area	Coordination case	Criminal Assistance case	External Investigation case <sup>1</sup>	Internal Investigation case	Total
Agriculture	15	0	15	0	30
EU Institutions + Bodies	0	0	12	34	46
Cigarettes	5	3	0	0	8
Customs	18	4	8	0	30
Direct Expenditure	0	0	11	0	11
External Aid	0	1	62	1	64
Precursors	0	0	0	0	0
Structural Funds	1	1	19	0	21
VAT	0	0	0	0	0
<b>Total</b>	<b>39</b>	<b>9</b>	<b>127</b>	<b>35</b>	<b>210</b>

(1) External investigations cases in the area of “EU institutions and bodies” relate to cases in which third parties, e.g. contractors, are involved.

In 2007, 232 cases were closed. **Chart D** shows that the number of cases completed, which had been declining for five years, increased again in 2007, in line with the higher number of cases opened during the year.

**Chart D: Cases completed in each calendar year**

**Chart E** shows the number of cases opened and closed annually in the period 2003-2007. It illustrates that the clearance rate is getting closer to 1 over time. A clearance rate – the ratio between the numbers of cases opened and closed - of 1 has been set as a medium-term target in order to adapt the workload to the resources available and to avoid an excessive backlog of cases.

**Chart E: Opening, closing decisions and clearance rate (2003-2007)**

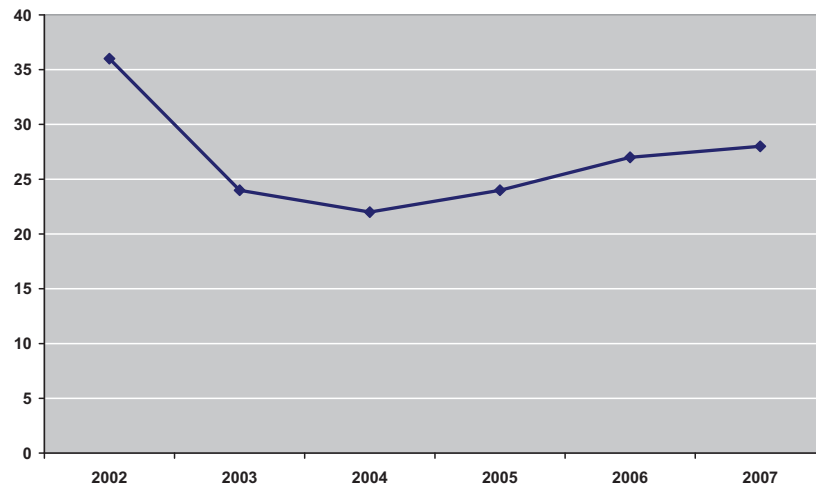
	2003	2004	2005	2006	2007
<b>Cases opened</b>	308	219	214	195	210
<b>Cases closed</b>	493	339	233	216	232
<b>Clearance rate</b>	0.625	0.646	0.918	0.903	0.905

**Chart F** shows that the average duration of cases has been relatively stable over time. OLAF keeps this indicator under close watch, since reducing the average duration of cases is of a key concern for the Office. However, the achievement of the long-term aim of bringing the average duration of cases down to less than 24 months must take account of wide differences between types of investigation and areas concerned.

The increase in the average duration emphasises the difficulties faced by investigators in complex cases, and in cases where the involvement of Member States or outside partners is required<sup>7</sup>.

<sup>7</sup> See section 2.2 of the full Report.

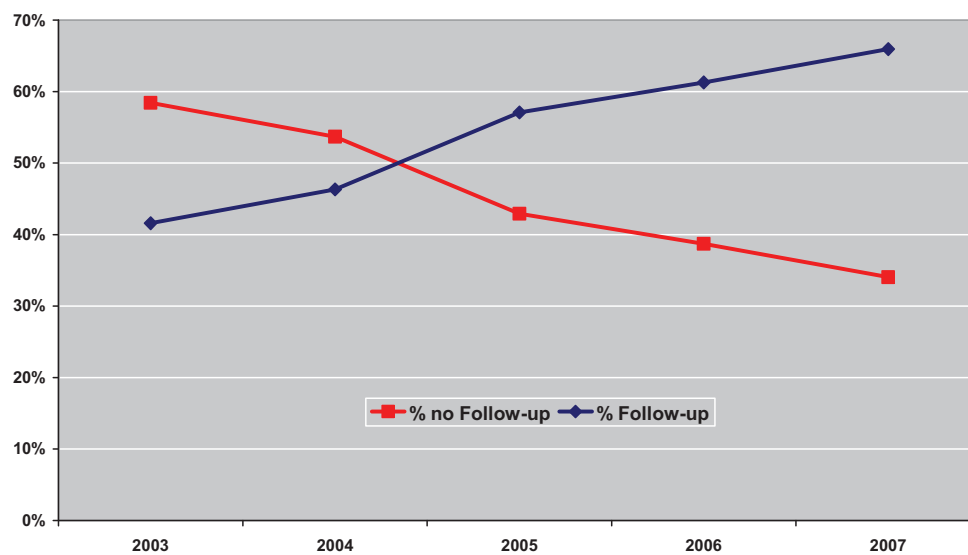
**Chart F: Duration in months of active stage of investigations completed in each calendar year**



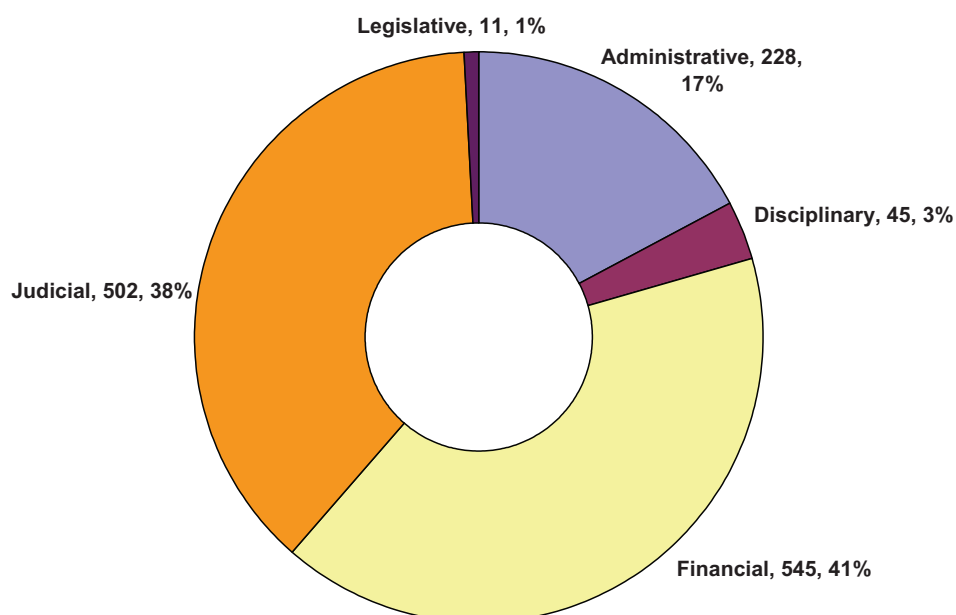
### 2.3 Follow-up activity

Cases closed with follow-up accounted for an increased proportion of cases closed in 2007 - more than 65% as compared to 41% only five years earlier. This positive development demonstrates that OLAF's operational and investigative work has been successfully translated into a proportionate increase in significant results.

**Chart G: Cases closed with and without follow-up in each calendar year**



**Chart H** illustrates the follow-up activities related in terms of the 781 cases closed for which at least one follow-up path was still open at the end of 2007. Most activities relate to judicial and financial follow-up.

**Chart H: Type of follow-up activities in respect of closed cases at the end of 2007**

## 2.4 Recovery

In 2007, a sum exceeding €478 million was recorded as recovered in the context of OLAF cases. This arises from the follow-up paths closed in 2007 (about €203 million) and from the actions that were still in follow-up at the end of the year (about €275 million).

**Chart I** shows the annual breakdown of financial recovery completed in the last five years. These sums only represented a fraction of the total amounts recovered following a fraud or other irregularity, as most of the recoveries are made by Member States with no direct link to OLAF cases<sup>8</sup>.

**Chart I: Breakdown of amounts recovered in million Euros in each calendar year in respect of financial follow-up paths (closed only, except for the last column)**

Major Area	2003	2004	2005	2006	2007	Total	Additional amounts recovered in respect of follow-up paths still open in 2007
<b>Agriculture</b>	0,00	0,07	14,43	1,18	0,84	<b>16,52</b>	144,77
<b>Customs</b>	0,03	1,58	63,05	0,13	3,34	<b>68,13</b>	102,47
<b>Direct Expenditure</b>	0,22	1,86	0,18	0,25	0,49	<b>2,99</b>	0,44
<b>EU Institutions + Bodies</b>	0,00	0,04	0,00	2,16	0,13	<b>2,33</b>	1,84
<b>External Aid</b>	0,88	2,01	31,78	92,72	0,90	<b>128,29</b>	3,97
<b>Structural Funds</b>	1,47	192,62	97,96	17,22	197,67	<b>506,95</b>	22,04
<b>Total</b>	<b>2,61</b>	<b>198,17</b>	<b>207,40</b>	<b>113,66</b>	<b>203,37</b>	<b>725,21</b>	<b>275,52</b>

<sup>8</sup> See the *Commission Report on the Protection of the Communities' financial interests – Fight against Fraud 2007* for more details.

## 3 OLAF's added value: some case studies

### **Case study: Plagiarism in research projects**

A Directorate General of the European Commission passed information to OLAF on possible irregularities committed by the manager of a research centre in the course of projects subsidised by Community funds. The alleged wrongdoings included falsification of time management reports and plagiarism of the findings of earlier projects.

OLAF investigated the case using computer forensics and gathered additional information to firm up evidence of irregularities. In parallel, the DG concerned carried out an audit of research projects, which confirmed that false statements had been filed by the interested party. OLAF subsequently carried out on-the-spot administrative checks on several projects subsidised by the EC, together with the national police force which was acting as representative of the Member State. The police then notified the Director of the research centre of the seizure of all documents related to these projects and of allegations of forgery and use of forged documents underpinning the national judicial investigation.

The analysis carried out by OLAF confirmed the allegations of plagiarism through the systematic use of old academic papers.

The results of the investigation were forwarded to the judicial national authorities for the criminal investigation, and to the Commission service concerned, for recovery of the unduly paid subsidies of up to one million Euros.

### **Case Study: Major smuggling ring broken up**

OLAF received intelligence from the customs authorities in a Member State about the suspected smuggling of cigarettes into the EU on board ships and the imminent arrival of a suspect vessel in an EU port.

This information was immediately passed to national Customs who, on searching the vessel, discovered more than one and a half million cigarettes hidden in its forepeak.

Under OLAF coordination, investigations were launched in several EU States as well as in non-EU countries. Assistance was provided by Philip Morris International (PMI) under the terms of the Anti-Contraband and Anti-Counterfeit Agreement between PMI and the European Commission and 26 Member States.

It was established that a major criminal organisation was smuggling large quantities of cigarettes into the EU on board vessels docking in ports in at least three Member States. The cigarettes were then sold on the black market and the proceeds were transferred back to a non-EU country.

The investigation led to several arrests and the seizure of more than 4 million cigarettes in the EU, as well as the detention of several suspects in Russia. The estimated losses to the Community and national budgets on the cigarettes seized amount to more than half a million Euros and would have run into several hundred million if the gang had continued smuggling.



## 4 Cooperation with OLAF's partners: a key factor in the fight against fraud

### 4.1 Cooperation with Member States

#### 4.1.1.1 Joint Customs Operations

In 2007, OLAF provided assistance to five joint customs operations (JCO), during which the customs authorities of the participating Member States brought to light a large number of serious offences designed to deprive the European budget of revenue. Joint customs operations can significantly improve the effectiveness of the national authorities by targeting checks at European level. OLAF supported five such operations: DIABOLO, BRIGANTINE, WASABI, PRIMA2, PRIMA3.

Operation 'Diabolo' for example, a joint World Customs Organisation (WCO) and ASEM<sup>9</sup> Customs operation, which was conducted from OLAF's headquarters in Brussels and involved the customs authorities of the 27 Member States, resulted in the seizure of some 135 million counterfeit cigarettes. It ensured that the budgets of the Union and the Member States did not incur significant losses in terms of customs duties and tax revenue (estimated in excess of €22 million).

#### 4.1.1.2 Agreements with cigarette manufacturers

In 2004, the European Community and 10 Member States concluded an agreement with the cigarette manufacturer Philip Morris International (PMI) on a system for combating the smuggling and counterfeiting of cigarettes. Under this agreement, approximately one billion dollars will be paid over a 12-year period to the European Community and to the 10 Member States which were party to the agreement in July 2004. Between the signing of the agreement and the end of 2007, PMI paid almost USD 575 million (approximately EUR 364.5 million). Since then, 16 more Member States have signed the agreement.

In December 2007, the European Commission and 26 Member States<sup>10</sup> signed a second cooperation agreement with Japan Tobacco International (JTI). The agreement, which runs for 15 years, makes provision for the payment of USD 400 million (approximately €250 million), which could be used to combat the smuggling and counterfeiting of cigarettes. It shares all the main features of the agreement with PMI.

One of the main features of the two agreements is the mechanism to prevent the smuggling of PMI and JTI cigarettes over the long term into the European market. In cooperation with OLAF and the Member States, the agreements provide for procedures to monitor and trace products to determine the point at which real cigarettes (of the PMI and JTI brand) are diverted from the legal supply chain and fall into the hands of smugglers.

### 4.2 Cooperation with EU bodies in charge of police and judicial cooperation

OLAF was present at the second meeting of "Heads of EU Justice and Home Affairs agencies" organised by Europol on 26 June 2007<sup>11</sup>. Even though OLAF is not formally an EU JHA agency, it

<sup>9</sup> Asia Europe Meeting: is an informal dialogue process initiated in 1996.

<sup>10</sup> The United Kingdom is not a party to this agreement.

<sup>11</sup> The "EU JHA agencies" meeting comprise Eurojust, Europol, OLAF, the EU Joint Situation Centre, Frontex (European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU) and

was invited to the meeting because of its independent investigative role in the protection of EC financial interests.

Based on the preparatory work of the OLAF-chaired technical meeting of legal and data protection officers of the “EU JHA agencies”, held on 19 and 20 April 2007, the “Heads of EU JHA agencies” agreed to take note that the “EU JHA agencies” - insofar as their legal framework makes provision for processing personal data for operational purposes – consider each other as providing an adequate level of data protection, including security measures, and as offering the same level of protection for the handling of information.

#### **4.2.1 Eurojust**

The First OLAF/Eurojust Joint Seminar was held on 26-27 March 2007 on fraud and corruption affecting the European Communities’ financial interests, with the aim of improving the cooperation between Member States and the two agencies. The President of Eurojust and the Director General of OLAF met twice in 2007 to review the joint activities and discuss further development of the cooperation.

OLAF is a permanent observer at the European Judicial Network (EJN) meetings hosted by Eurojust. In 2007, OLAF actively participated in the 27th and 28th Plenary Meetings of the Contact Points of the European Judicial Network in Trier and in Obidos, and in the Eurojust Seminar “*Eurojust - Navigating the Way Forward*” in Lisbon in October.

#### **4.2.2 Europol**

In 2007, two meetings at technical level took place, as well as a high-level meeting between the Director General of OLAF and the Director of Europol on 18 July 2007.

OLAF and Europol also work together on combating cigarette smuggling. The analytical resources of Europol combined with the established operational experience of OLAF should ensure the best possible service to the Member States and should avoid unnecessary duplication of effort.

### **4.3 Cooperation with international partners: raising awareness and building trust**

OLAF itself organised 10 conferences and seminars in 2007 for training purposes to cover priority areas such as cooperation with candidate countries, investigations in cooperation with national services, communication and cooperation with national Prosecutors. The most significant of these were:

- Conference on “Corruption Affecting European Communities’ Financial Interests”, 26-27 March in Brussels in cooperation with Eurojust;
- 8th Conference of International Investigators, Vienna, 9-11 May;
- 1st Conference on the “protection and optimisation of public funds” in the area of external aid, Rabat, Morocco, 14-16 May;
- 5th OLAF Conference of Fraud Prosecutors, Brussels, 18-19 October;
- International Co-operation against fraud and corruption, Buenos Aires, Argentina, 11-14 November;

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CEPOL (the European Police College), as well as Council working groups, such as the Police Chiefs Task Force (PCTF) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).