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SUMMARY

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EUROPEAN COMMUNITY: Cross-border fraud against the EC budget

The fourth annual report on the fight against such fraud is adopted.

Are the staunchest advocates of a European single market to be found among those quickest to defraud the European Community? They certainly know just how the Community works - and how to use this knowledge to line their own pockets. They have a complete disregard for national frontiers - except when it comes to taking advantage of the delays national proceedings are prone to, given that fraud detection and prevention are the responsibility of national governments and courts, even when the victim is the Community itself.

The European Commission is required, however, to see to it that the Member States carry out their obligations. It must also contribute to improving fraud prevention and repression, mainly by encouraging Member States to cooperate with each other.

But what is the scale of fraud against the EC budget? Unfortunately there is no precise answer, because there is no reliable method for estimating the level of fraud with an acceptable margin of error. All one can say with certainty is that the scale of fraud far exceeds the figures notified by the Member States. As mentioned earlier, prime responsibility for protecting the Community's financial interests rests with the Member States, given that they have the necessary police and legal powers to bring prosecutions, so essential for the fight against fraud. The Maastricht Treaty explicitly highlights their responsibility: "Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests."

This does not mean that the European Commission has no say in the matter and does nothing to combat fraud. Those who accuse it of failing to track down the perpetrators of fraud completely misunderstand its role: the Commission does not act as a police force. It plays a back-up role, acting at the legislative level through Community decisions aimed at preventing fraud; improving the system of information exchange on fraud in the Community and developing the instruments used for monitoring and investigating fraud. The Commission can also ask Member States to launch inquiries, or may conduct them itself. It was to this end that it created the Unit for the Coordination of Fraud Prevention (UCLAF) in 1988. UCLAF has the task of improving coordination between the European Commission and the Member States, and represents the Commission in its dealings with the European Parliament and Council of Ministers.

Most cases of fraud have to do with the EC's agricultural funds and customs duties. Since 1989 some 3,200 cases of fraud involving the Guarantee section of the EAGGF and 1,859 cases involving the EC's own resources (customs duties and agricultural levies) have been detected. Over the years the Commission has proposed anti-fraud legislation in a number of areas, including the systematic introduction of monitoring systems for the EAGGF Guarantee section and the simplification of agricultural regulations. Ex-post checks on company accounts by the Member States have proved to be a particularly effective tool. The panoply of measures introduced by the Commission include minimum physical checks on agricultural exports on which refunds are claimed as well as new methods and structures for carrying out checks, such as the olive oil monitoring agencies, which have already proposed the withdrawal of approval for a large number of mills in Italy and Greece.

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It would be wrong, however, to think that fraud is a monopoly of the EC's southern Member States, and of Italy in particular. The truth is at once more simple and banal. It is that fraud goes on in all the Member States. However, in the agricultural sector there does appear to be a North-South division. In the North, where there are a limited number of large enterprises, there are relatively more cases of large-scale fraud involving, in particular, the fraudulent export of large quantities of meat and milk powder. In the South, where there are a large number of small farmers, there are relatively more cases involving fraudulent declarations by cooperatives or mills in the olive oil sector, for example.

One must not forget that the information on cases of fraud is supplied to the Commission by the Member States themselves. Thus while it is true that Italy broke all records in 1992 with 499 cases reported to the Commission, for an amount of ECU 333mn.* (followed by France: 407 cases, but for a much smaller amount - ECU 19.4mn. - and preceded by Britain, with 592 cases, for a total of just ECU 17.1mn.) this may simply mean that the Italian authorities have been the most effective in detecting fraud.

The real problem has more to do with the recovery of the sums obtained fraudulently. The fact is that barely 10% is recovered. The losers are not the Member States, however, despite the widespread belief that they must refund the Community for any amounts which are not recovered, but the Community budget, which must bear the cost of the fraud at the end of an unsuccessful recovery procedure. This does not mean that the EC budget can be defrauded with impunity; several who tried faced bankruptcy and even prison. The fact is that those responsible for fraud prevention are busy improving their tools: checks are

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being increasingly targeted on products and operations carrying a high risk of fraud. It is nevertheless true that legal systems differ from one Member State to the next - which is why the European Commission is currently examining the findings of two studies on the penalties available under customs legislation and the system of administrative penalties and punishments under criminal law in the Member States.

The Commission now plans to work on the basis of annual programmes, the multiannual action programme which it set itself in 1989 having been largely completed. Thus the 1993 programme contains numerous measures, of which the most important have to do with the simplification of agricultural legislation and the introduction of an integrated management and control system in agriculture. The programme also includes a proposal for a Regulation laying down details of the measures for reporting and investigating fraud affecting the Community's Structural Funds; the development of computerized systems for combating fraud; the extensive use of remote-sensing techniques (involving the analysis of photographs taken by satellite, linked to on-the-spot enquiries when necessary); the use of risk analysis techniques in all areas and the training and exchanges of customs and tax officials.

The enemies of the Community budget may be numerous and cunning, but the challenge they pose is being met.

* 1 ECU = UK£0.80 or IR£0.80

ECONOMY: ECU 35,000mn. in the cause of recovery
The European Commission and the Twelve are determined to act together.

The EC's finance and economics ministers decided on April 19 to pull together, in a bid to relaunch an economy that is stagnant - even in recession in some EC countries. The package of measures envisaged should lead to the creation of 450,000 jobs in two years, in a Community in which some 14mn. are currently jobless.

This is the first time that the EC and its Member States have decided to pursue concerted policies in order to influence the economic situation. The principle of this "growth initiative", as it is officially known, was adopted by the EC's heads of state and government at their Edinburgh summit last December. The measures announced on April 19 are just the first step.

The 12-nation Community is staking ECU 35,000mn.* in all on this initiative. with the EC putting up ECU 23,000mn. and the Member States ECU 12,000mn. The latter are providing ECU 6,000mn. to finance additional public investments and ECU 6,000mn. in the form of backing for private investments. The Community's contribution includes notably the "Edinburgh mechanism", which provides loans for major infrastructure projects; the European Investment Fund, currently being set up to support both public and private investments, and the cohesion fund, which will benefit the less well off EC countries - Ireland, Greece, Portugal and Spain. The EC's contribution also includes funds for research, vocational training, small businesses and regional aid.

Major infrastructure projects are well to the forefront of the recovery measures envisaged by both the EC and the Member States: high-speed trains, motorways, the modernization of airports and the telecommunications network and improvements in the distribution of energy.

The European Commission and the Twelve expect the growth initiative to result in a 3% increase in investments next year. They also, and perhaps above all, expect it to lead to a recovery of confidence among businessmen and consumers. The second stage could thus be marked by a sharp fall in interest rates.

* 1 ECU = UK£0.80 or IR£0.80.

RESEARCH: It has a role to play in relaunching the economy ...
... provided the Twelve follow the European Commission's guidelines.

ECU 13,100mn.* - now there's a goodly sum that could be used to relaunch the economy. In fact it is the sum which the European Commission has proposed to the Twelve be devoted to scientific research and technological development in the European Community in the period from 1994 to 1998. But the goal, as the European Commissioner for research, Antonio Ruberti, stressed, would be "to contribute to the establishment of a genuine Community research policy - not to develop one more research programme, to be added to those of the Member States."

Commissioner Ruberti was speaking to the press when he presented, at the end of April, the European Commission's guidelines for the Fourth Community RTD Framework Programme. The resources currently made available from the EC budget represent a very small proportion of total public expenditure on research in the 12-nation Community: 3.7% in 1990, the latest year for which figures are available. The four most populous EC countries accounted for more than 80% of public spending on research in 1990: Germany - 30%; France - 22.5%; Italy - 16.8% and Britain - 11.2%.

Of the 12 EC countries it is Germany which devotes the highest percentage of its Gross Domestic Product (GDP) to research: nearly 2.8%. This is almost as much as the United States (2.8%) but less than Japan (3%). Next come France (2.4%) and Britain (2.2%). The Netherlands devotes just 2% of its GDP, which is exactly the average for the EC, but well below the percentages recorded for the United States and Japan. In the seven remaining EC countries, research accounts for less than 1.7% of GDP, with Portugal devoting just 0.5% and Greece 0.4%.

The two main conclusions the European Commission has drawn from these figures are the need to: (1) coordinate national research policies with each other and with Community policy, given that present efforts in this direction are too fragmented and (2) underline the scientific and technological possibilities offered by the most disadvantaged Community countries and regions, by doing more to coordinate the scientific and regional policies of the 12-nation Community.

The European Commission also considers it necessary to broadcast the results of Community research more widely and to exploit them more effectively throughout the 12-nation Community. This will enable regions facing difficulties and small and medium-sized enterprises to benefit from the new technologies.

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The Commission has argued once again for the Community's resources to be concentrated on a limited number of areas of research, such as information technology and communications; energy; new industrial technologies and the environment.

Finally, it wants to see included in the next Community framework programme work on the Community's needs in the field of education and vocational training, in order to raise professional qualifications in the EC.

* 1 ECU = UK£0.80 or IR£0.80

INFLATION: Unchanged in March ...

... at an annual rate of 3.5% for the EC as a whole.

The annual rate of inflation for the 12-nation European Community as a whole was 3.5% in March - as it was in February, according to Eurostat, the EC's statistical office.

Denmark continued to have the lowest annual rate of inflation among the Twelve - 1.1%. Britain and Ireland both checked in at 1.9%, followed by France with 2.2%, the Netherlands (2.4%) and Belgium (2.9%). Luxembourg's annual rate of inflation was above the Community average, at 3.7%. Spain's rate of inflation was 4% and that of Germany (West) and Italy 4.2%. The highest annual rates of inflation continued to be recorded in Portugal - 7.3% - and Greece - 16.4%.

Among the EFTA countries currently seeking to join the EC, both Norway and Finland had rates of inflation below the EC average, at 2.5% and 2.7% respectively. Austria, with 3.9%, and Sweden with 4.9% were somewhat above the Community average.

The level of inflation was below that of the EC in both the United States - 3.1% - and Japan - 1.5%.

<u>EMPLOYMENT: The use of cutprice Third World seamen on European boats ...</u>
... is not against the Treaty of Rome, according to the Court of Justice.

International maritime transport and the social standards of European countries do not often go together, as is shown by the use of flags of convenience, a practice frequently denounced. A recent dispute between a German shipping company, Sloman Neptun of Bremen, and its works council provides a fresh example of this. The council tried to prevent the company from hiring Filipino seamen on less favourable terms, as regards both wages and working conditions, than are guaranteed German seamen under collective agreements. But the EC Court of Justice, to which the dispute was referred by the German courts, held that the German law which makes such hiring possible does not contravene the Treaty of Rome - the EC's "constitution".

A German law of 1989 provides for an additional register for merchant vessels engaged in international maritime trade and flying the German flag. This international German register - or ISR, from its German initials - allows German maritime companies to employ seamen, who are neither domiciled in Germany nor have a fixed abode in that country, at the wages prevailing in their country of origin. Given that in practice such seamen come from developing countries, it is clear just what this means. The fact is that the German law in question was adopted in order to prevent German shipping companies from yielding to the temptation to register their vessels under Panamanian or other flags of convenience.

The Sloman Neptun works council refused to give its agreement - necessary under German rules - to the hiring of Filipino seamen. It held that the German ISR legislation is contrary to the Treaty of Rome for two reasons: (1) it amounts to state aid for German shipping companies, thus giving them an unfair advantage over their competitors from other EC countries and (2) it is in violation of Article 117 of the Treaty of Rome, which affirms the "need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained."

But this was not the opinion of the European judges. It should be pointed out that the European Commission has proposed to the Twelve the creation of a European maritime register, offering European shipping companies tax benefits, in order to persuade them not to use flags of convenience.