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**PROTECTING THE COMMUNITIES' FINANCIAL INTERESTS  
AND THE FIGHT AGAINST FRAUD – ANNUAL REPORT 1998**

(presented by the Commission)

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## INTRODUCTION

The circumstances in which the tenth annual report on the protection of the Community's financial interests and the fight against fraud was drafted were special, and different from those in which earlier reports were prepared. On 16 March 1999 the Commission took the decision to resign following the publication on 15 March of the first report of the Committee of Independent Experts.<sup>1</sup> The outgoing Commission did not feel it appropriate, in these circumstances, to publish the annual report within the normal time limits. It should also be noted that the drafting of this report was begun during the period of the outgoing Commission under the direction of the Task Force for Co-ordination of Fraud Prevention (UCLAF) and has been finalised by the European Anti-fraud Office (OLAF), an independent body in the Prodi Commission. This report describes the unique period of transition between the new and old Commissions as well as from the old anti-fraud structure to that of the new Office.

The Commission's report for 1998 is the last one to take stock of the activities of the Task Force for Co-ordination of Fraud Prevention (UCLAF). On 28 April 1999 the Commission decided to create the European Anti-fraud Office (OLAF),<sup>2</sup> an independent body as far as operational activities are concerned, which takes over all the tasks of UCLAF. The new legislative package<sup>3</sup> came into force on 1 June 1999 and extended and reinforced the responsibilities of the Office, which include all activities relating to safeguarding Community interests against irregular conduct liable to result in administrative or criminal proceedings.

The Community budget for 1998<sup>4</sup> amounts to ECU 82.8 billion (implementation of payment appropriations). It is financed from traditional own resources (ECU 14 billion), VAT (ECU 33 billion) and the fourth resource paid directly into the Community budget, which is its main receipt (ECU 35 billion). Expenditure still goes chiefly to agriculture (ECU 39.1 billion, or 47% of the total). Structural policies account for ECU 28.8 billion (35% of the total) and expenditure directly managed by the Commission (external actions, research and development, etc.) for ECU 10.7 billion (13% of the total, excluding administrative and staff expenditure).

It should be recalled that cases of fraud and other irregularities detrimental to the Communities' financial interests must be detected by the Member States and the Commission, working closely together. The principal obligation is on the Member States, since they collect traditional own resources on behalf of the Communities and administer around 80% of Community budget expenditure. On the basis of the definitions of concepts of "irregularity" and "fraud" (the latter covering an irregularity in which there is an element of intent which makes it a criminal offence), an attempt has been made, for the first time, to quantify as such the number of frauds detrimental to the Community budget. At the present time, the notifications from the Member States on which the analysis is based have proved insufficiently precise and harmonised for detailed statistics to be produced. Overall, 20% of the irregularities notified can nevertheless be considered to be "fraud".

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<sup>1</sup> First report on the allegations regarding fraud, mismanagement and nepotism in the European Commission.

<sup>2</sup> Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF), OJ L 136, 31.5.1999, p.20.

<sup>3</sup> In addition to the abovementioned Commission Decision, the package includes a Regulation (EC) of the European Parliament and of the Council concerning investigations conducted by OLAF and an Interinstitutional Agreement concerning internal investigations by the Office (OJ L 136, 31.5.1999).

<sup>4</sup> Source : budgetary vademecum (European Commission, 1999 edition, doc. SEC(1999)1100.

The trends and flows of irregularities presented in Chapter 1 of the report must, however, be interpreted with caution. It should always be remembered that a notification made by a Member State under its anti-fraud obligations may in reality relate to an irregularity or fraud which extends over several years, as in the case of the EAGGF Guarantee Section for 1998, and that a limited number of cases may have a great effect on the statistics but without illustrating a general trend. In addition, the on-the-spot investigations carried out in previous years are beginning to bear fruit.

In the area of own resources, for example, 1997 was particularly fruitful in that almost ECU 1 billion of the amounts involved, representing 6.6% of the budget concerned (ECU 14 billion in 1997), had been detected in cases of fraud or irregularity (cases notified by the Member States and investigations by UCLAF, in co-operation with the Member States); in 1998, the amounts detected are no more than just over half this amount (ECU 538 million), i.e. 3.8% of the budget (the budget concerned having remained stable). The influence of the "cigarette" cases on the statistics was particularly crucial in 1997. The significant fall in the amounts resulting from cigarette trafficking matches the success against the black market obtained on the ground, in Spain and Andorra. So UCLAF's resources continued to be mobilised in 1998, with the co-operation of the competent national authorities, to bring investigations to a successful conclusion with a view to punishing those guilty and recovering the amounts diverted.

As regards the Structural Funds, some Member States are still having difficulties in meeting their reporting obligations. The small amounts involved in the cases of fraud or irregularity notified in 1998 as compared with 1997 (ECU 42 million compared with ECU 57 million in 1997) can be related to the small number of cases dealt with by UCLAF in co-operation with the Member States over the same period (ECU 7 million involved in these cases compared with ECU 60 million in 1997). The overall budget impact therefore declined from 0.45% in 1997 to 0.18% in 1998, when budgets remained roughly stable, rising only from ECU 26 billion to ECU 28 billion. In the case of the Cohesion Fund, the low number of notifications of irregularities by the Member States may be explained by the fact that only four of them are involved. Moreover, for this Fund, inaugurated in 1994, the projects, which are annual, are subject to closer surveillance by the Member States concerned.<sup>5</sup>

The same unit of the UCLAF Task Force is responsible for investigations concerning the structural funds, direct expenditure and corruption (or matters likely to involve officials or other staff of the institution). In 1998, this unit made these "internal" matters, which require a greater volume of work, its highest priority. This is reflected in the overall number of investigations.

Lastly, the converse situation has been observed in the EAGGF Guarantee Section: in 1997, an amount of ECU 317 million was involved in fraud or irregularities (0.79% of the annual budget of over ECU 40 billion devoted to such expenditure), whereas in 1998 this amount increased to ECU 420 million (over 1% of a smaller budget of ECU 39.1 million). This discrepancy is due to the fact that in 1998 Member States reported several new cases of irregularity covering several years of investigation.

Lessons have been drawn from these activities of investigation and operations co-ordination to begin important actions in the area of prevention, in particular with regard to adapting the legal framework and strengthening Community legislation in terms of fraud proofing in

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<sup>5</sup> Spain, Portugal, Ireland and Greece.

accordance with the decisions taken by the Commission in the framework of "SEM 2000" and its recommendation no 7<sup>6</sup> :

- the reform of the transit regime, the need for which was highlighted following findings on the ground, continued in 1998 in accordance with the action plan adopted by the Commission in 1995;
- likewise, the reform of the preferential systems, which started in 1996 with reinforcement of the regulations concerning the GSP (generalised system of preferences) continued generally in 1997 and 1998, including via the Commission communication on management of the preferential systems, which highlighted the significant risks of fraud and irregularities in these areas. This led in particular in late 1998 to the adoption of a new type of safeguard clause, legally linked to protection of financial interests, in the new GSP arrangements which allows the Commission to act quickly in cases of significant fraud and weaknesses in administrative co-operation with non-member countries. Moreover, this development is the basis of the work currently under way in 1999 to finalise a horizontal legal instrument covering all preferential agreements in cases of fraud, an instrument which was recommended by the Commission in its previously mentioned communication;
- in addition, the financial correction system was strengthened in the area of structural policies, along the lines of the existing situation for agriculture, such measures having also been proposed for traditional own resources;
- other preventive measures also led to strengthening specific legislation in the agricultural field (refunds, BSE ...).

Mention must be made of other important measures taken in 1998 to protect the Community's interests over and above the strictly financial aspects.

The developments in question relate to the protection of the Community's interests against the actions of well-organised delinquency or even crime, which not only target Europe's finances but also affect the very legitimacy of certain fundamental Community policies, endanger the national economies and erode the credibility of European integration. An appropriate criminal response must be found to such delinquent or criminal behaviour by combining the effects of Community and national law to thwart the criminals and to prevent the spread of their activities.

The Union's new policies, such as the achievement of economic and monetary union, and, in particular, the introduction of the Euro, require the establishment of a system of Community protection against counterfeiting or illegal manufacture of coin. Also, to respond to the challenge of enlargement, the Commission is developing a pre-accession strategy to help applicant countries prepare for their entry into the Union with a system of protection suited to the safeguarding of Community interests, in terms of both organisation and operations.

Lastly, the legal instruments (title VI of the Treaty) laying down provisions relating to the protection of the Communities' financial interests have still not been ratified since they were adopted in 1995, despite repeated appeals by the Ecofin and Justice and Home Affairs Councils, and the European Council. However, the first pillar instruments adopted during the same period are being applied.

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<sup>6</sup> SEC(96)1802/4. See 1996 annual report, chapter 1, page 11.



## 1. ANALYSES AND STATISTICS

### 1.1. Fraud and other irregularities

The objective of the fight against fraud is to protect the European Communities' financial interests (and therefore the interests of the European taxpayer) against all forms of illegal conduct. The form taken by such conduct varies widely, ranging from negligent or accidental failure to comply with a rule of Community law to intentional or even criminal acts, often perpetrated by organised groups.

The concern to effectively protect Community finances is such that the legal instruments organising the fight against fraud cover the whole range of illegal conduct from mere irregularities to organised criminal fraud. The word "irregularity" has by far the broader definition in Community law:

"*Irregularity*" shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure."<sup>7</sup>

"Fraud", on the other hand, covers conduct that renders the perpetrator liable to criminal penalties. It is defined as follows:

"1. For the purposes of this Convention, *fraud* affecting the European Communities' financial interests shall consist of:

(a) in respect of expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- the misapplication of such funds for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- misapplication of a legally obtained benefit, with the same effect."<sup>8</sup>

By these definitions, the general concept of "irregularity" embraces "fraud", which is, however, distinguished from "other irregularities" by, among other things, the

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<sup>7</sup> Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 (JO L 312, 23.12.1995).

<sup>8</sup> Article 1(1) of the Convention on the protection of the financial interests of the European Communities (JO C 316, 27.11.1995).

intention behind the offence and the use of illicit means contrary to the criminal law. Fraud calls for the application of far tougher enforcement measures and the involvement of the judicial system, whereas the emphasis in the case of other irregularities is on putting the financial situation right.

This being so, it would be worth making a clearer distinction in this report on UCLAF activities between "frauds" and "other irregularities". But the information transmitted by the Member States has not been found to be sufficiently precise and reliable to make the distinction. Even the information supplied on the "type of irregularity" has to be used cautiously.

- The practice of the relevant authorities in reporting cases varies widely from one Member State to another (the proportion of "irregularities" described as "frauds" varies between 0 and 76%). The initial "label" put on a case may depend on whether the investigating or detecting authority is an authority with criminal-law jurisdiction.<sup>9</sup>
- If we look not only at the type of irregularity but also at the Member States' description of the *modus operandi*, it becomes clear that a greater number of cases ought really be described as "fraud", particularly on the own resources side.
- Lastly, the assessment of the legal status of a case may evolve over time and a case initially considered to be a "fraud" and reported as such might be reclassified at the end of the judicial procedure as an "irregularity", and *vice versa*.

Regarding the number of cases under investigation at UCLAF in co-operation with the Member States, the distinction would be out of place for a number of reasons: UCLAF deliberately concentrates on complex transnational cases, known as "serious" irregularities and often attributable to organised crime, which the Member States cannot handle without support from the Community; and UCLAF has no power to settle the question whether an irregularity is a criminal offence since its investigations aim solely to ascertain whether on the facts there is an irregularity, leaving it to the Member States' authorities to classify the irregularity in terms of the criminal law.

## 1.2. Established and suspected fraud

A cautious interpretation of all the facts in UCLAF's possession suggests that, all budgetary sectors combined, one case in five can be described as "fraud" and warrants criminal-law measures.<sup>10</sup> "Other irregularities" can often be recorded and reported by an administrative authority, whereas "fraud" as a criminal offence can only be described as such by the judicial authorities, generally meaning the courts. Between the commencement of proceedings and the final judgement, there may often be a considerable period of time.

Likewise, the description of an irregularity under investigation at UCLAF as "fraud" can be no more than a relative pointer to the seriousness of the case. All that UCLAF can provide is the information gathered in the course of the investigation and a contribution to the proceedings in national bodies (for instance through transnational co-ordination). The Commission's description of a case as "fraud" can therefore be

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<sup>9</sup> For example, most of the cases reported by Italy were detected by the *Guardia di Finanza*, which is not a purely administrative authority.

<sup>10</sup> For example, prosecution for forgery.

no more than a provisional description pending the verdict of the relevant national authorities. This verdict must be recorded in the formal report sent in by the Member State on the basis of the sectoral rules and regulations that are applicable.

The same applies to the identification of the amounts at stake. Particularly in fraud cases, the budgetary impact cannot be measured with precision until the proper court has given its final verdict. At all earlier stages of the proceedings, there will be only an estimate, the accuracy of which will vary. This is the case in particular of UCLAF investigations, the very purpose of which is to ascertain the facts and assess them in context. The amount at stake will emerge only as the investigation progresses.<sup>11</sup>

To gain an accurate picture of the real impact of fraud and other irregularities, account must be taken of the amounts declared by the Member States as a result of their investigations and the amounts estimated by the Commission for cases under investigation but not yet formally reported by the Member States. Where the Member States discharge all their reporting obligations, the estimated impact of cases under investigation by UCLAF should be confirmed (or invalidated) by the Member States' reports (many of which, incidentally, relate to the following year).

### 1.3. The situation in 1998

#### 1.3.1. Irregularity cases notified by the Member States

For 1998 the Member States notified the Commission of 5 091 cases of irregularities including frauds involving ECU 577 million. A preliminary analysis indicates that cases of irregularities involving a suspicion of fraud covering all budgetary areas represent by number and value about 20% of the total.

Cases notified by Member States are broken down as follows:

<i>Area of the budget</i>	<i>Number of cases (in 1998)</i>	<i>Amounts involved (in millions of ECU's)</i>	<i>% of budget (*)</i>
<i>Own resources</i>	2 272	249	1.77%**)
<i>EAGGF Guarantee Section expenditure</i>	2 412	285	0.73%
<i>Expenditure on structural measures</i>	407	43	0.15%

(\*) This percentage of the 1998 budget concerned with irregularities notified by the Member States is only an indication, an order of size, as some cases notified as being for 1998 may cover several previous years (an irregularity dating back one or several years may have been notified only in 1998)

(\*\*) of net traditional own resources.

A breakdown by Member State is given in Tables 1 to 4 in the Annex.

<sup>11</sup> The cigarette smuggling case is a good illustration. Where a given quantity of smuggled cigarettes is seized in the course of an investigation, the investigation must extend to earlier fraudulent imports not detected at the time. The financial impact of the fraud must be calculated on the basis of all the fraudulent imports and not just on the basis of the quantity seized.

### 1.3.2. Cases under investigation at UCLAF in co-operation with the Member States

In addition to the cases reported by the Member States, UCLAF opened 227 new investigations in 1998, generally upon suspicion of fraud or another illegal activity. A number of cases opened in previous years were also still under active investigation in 1998. The suspected impact of the new cases, and the amounts established for cases still under investigation,<sup>12</sup> come to about ECU 442 million.

<i>Area of the budget</i>	<i>New investigations (in 1998)</i>	<i>Estimated amounts (ECU million)</i>	<i>% of budget (*)</i>
<i>Own resources</i>	89	289	2.05%**
<i>EAGGF Guarantee Section expenditure</i>	73	135	0.35%
<i>Expenditure on structural measures</i>	41	7	0.02%
<i>Direct expenditure</i>	24	11	0.10%

(\*) This percentage of the 1998 budget concerned with cases opened by UCLAF in 1998 is only an indication, an order of size, as some cases, may cover several previous years (a case opened in 1998 may concern a suspicion of fraud dating back several years)

(\*\*) of net traditional own resources.

## 1.4. Trends

Comparisons with the pattern of recent years show that the number of new cases and their financial impact are stabilising. This applies both to fraud cases and to other irregularities.

### 1.4.1. Reports from Member States<sup>13</sup>

#### 1.4.1.1. Traditional own resources

The number of fraud and irregularity cases detected by the Member States fluctuates quite considerably. After peaking in 1997, it fell back to its 1995 level in 1998<sup>14</sup>.

Although the past pattern was for the amounts involved to rise from year to year, there was something of decline on previous years in 1998. But the more modest amounts established and reported by the Member States for 1998 do not match the

<sup>12</sup> For cases already opened in previous years, only additional amounts which have been established in 1998, over and above the initial estimate are taken into account (about thirty cases, all sectors included).

<sup>13</sup> Graphs 1, 3 and 5 in the Annex describe the pattern of reports from Member States since 1995.

<sup>14</sup> Since mid-1996, the member States have notified information on cases of fraud and irregularity directly to the Commission by means of the "OWNRES" computer programme. Graph 1 in the annexe shows the situation for these electronic notifications (original files and updates) on 4 October 1999. These notifications refer in addition to the year 1998 to the previous years where an update was necessary. The Commission has asked the member States on several occasions to notify on their own initiative any update of the cases of fraud and irregularity from the years 1989 (starting point of the obligation to notify) to 1996 by using this electronic means of communication. In this way, it is hoped that, in the years to come, the Commission will over time have more detailed and reliable information.

results of the investigations conducted by UCLAF in co-operation with the Member States in recent years. For *cigarettes* alone, the Member States report seizures of 5 billion smuggled cigarettes (78% more than in 1997), which represents a loss to the Community budget of ECU 118 million.

With 16% of cases detected and 12% of the total amounts involved, *preferential schemes* remain especially vulnerable. But the number of cases detected – and especially the amounts involved – in the *external transit* area is in sharp decline on previous years. This phenomenon might be explained by the close attention paid to this type of transaction and by the use of the Early Warning System.(EWS)<sup>15</sup>

#### 1.4.1.2. EAGGF Guarantee Section expenditure

The 2 412 cases reported for 1998 (frauds and irregularities) are almost 20% up on 1997 and almost 40% on 1995.

Following a considerable drop in the amounts involved in the reports for 1995-97, the total rose again in 1998 (+ 75%). The rise is due to reports from Italy of four very substantial olive oil cases (consumption aid), all running over several years. This bears out the Commission's observation<sup>16</sup> that the real budgetary impact of reported irregularities cannot be measured in terms of a single year as it depends heavily on the (unpredictable) date when an irregularity is detected.

Among these types of case, irregularities detected by the Member States always primarily concern market-support measures. The proportion accounted for by export refunds remains relatively stable. The products most commonly affected are olive oil, beef and veal, cattle and dairy products.

#### 1.4.1.3. Structural expenditure

The number of cases detected and reported by the Member States continues to rise. This suggests that the audit systems are performing better and better. But there are differences between Member States: the detection by the Commission of a large-scale Social Fund fraud in the Netherlands<sup>17</sup> highlighted the difficulties met by that Member State in discharging its reporting duty. In general terms the Netherlands reported only three irregularities in 1998, all of them in the ERDF area.

In 1998, about half the cases – and the amounts – reported concerned the Social Fund, which in 1997 accounted for less than 40%. In terms of budgetary allocations, the impact of fraud and irregularities is heavier in the Social Fund (0.28%) and the EAGGF Guidance Section (0.23%) than in the Regional Fund (0.11%) or the FIGG (0.12%).

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<sup>15</sup> Cf. point 4.5, page 48.

<sup>16</sup> Cf. Annual Report 1994, chapter 6, section 2.

<sup>17</sup> Cf. point 2.2.3.2, p. 28.

#### 1.4.2. *Cases under investigation at UCLAF*<sup>18</sup>

In 1998 UCLAF ran a total of 346 investigation and co-operation missions with the Member States; they concerned not only new cases arising in the course of the year but also cases that were already operational. These consisted of 132 missions relating to own resources (industrial, fisheries, agricultural and textile products and cigarettes), 135 relating to the EAGGF Guarantee Section, 79 relating to structural measures (Structural and Cohesion Funds) and direct expenditure managed by the Commission (research, expenditure in support of certain non-member countries – PHARE, TACIS, EDF, etc.).

Some of these investigation missions (55, or 16% of the total) were in non-member countries. But in terms of human resources (person/days), they represented nearly 30% of all operational activity.

One of the Commission's priorities is the fight against fraud involving organised networks or organised crime. That is why the activities of its specialised task-groups (cigarettes, alcohol, olive oil, etc.) have continued in close co-operation with the Member States and intensified in 1998 to counter this major, lucrative form of trafficking and prevent it from developing. It is also why UCLAF's remit extends beyond the protection of the Community's financial interests to other activities linked to organised crime, such as counterfeit goods (pirating).

These cases call for treatment under the criminal law, which is the only way of truly deterring organised crime rings that profit from disparities between the Member States' legal systems.

##### 1.4.2.1. Traditional own resources

The decline in amounts from 1997 to 1998, when the number of investigations rose, can be explained by the fact that the amounts involved in major established frauds in a variety of areas of activity are accounted for in a given year even though the investigation continues into the next year (or two or more). Such is the case of the Montenegro cigarette smuggling investigation,<sup>19</sup> which continued in 1998. The same applies to the Andorra cigarette smuggling investigation in 1997,<sup>20</sup> specific measures being taken in the context of enhanced co-operation between the EC and Andorra.<sup>21</sup>

##### 1.4.2.2. EAGGF Guarantee Section expenditure

In the EAGGF Guarantee Section, the number of new investigations opened in 1998 is the same as for 1996, higher than the number for 1997 and lower than the number for 1995. This reflects the fact that the examination of major cases launched in recent years is still consuming extensive resources. The amounts involved in UCLAF investigations peaked in 1997, whereas in that year the total amounts reported by the Member States were well below previous years and indeed the following year. This clearly illustrates how the results of an investigation conducted by a Member State

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<sup>18</sup> Graphs 2, 4, 6 et 7 in the Annex describe the pattern of investigations opened by UCLAF in cooperation with the Member States since 1995.

<sup>19</sup> Cf. Annual Report 1997, chapter 2, point 2.1.1.3, page 20.

<sup>20</sup> Cf. Annual Report 1997, chapter 2, point 2.1.1.5, page 21.

<sup>21</sup> Cf. chapter 2, point 2.1.1, page 19 et seq.

alone and a multilateral investigation by UCLAF will often not coincide in a given period.

New investigations primarily concern market support measures, beef exports and trafficking in sugar and milk quotas.

#### 1.4.2.3. Structural expenditure

The investigations opened by UCLAF in co-operation with the Member States are not following the same trend as the Member States' reports. They have declined in number, and the amounts involved are also down. One investigation in two begun in 1998 concerns the Social Fund, which accounted for less than 40% of investigations in 1997 (though more than 50% in 1996). The number of new investigations launched in the ERDF and EAGGF Guidance Section areas is well down on the previous years' levels.

The amounts involved in the cases under UCLAF investigation tend to be two or three times greater than those involved in cases reported by the Member States.

#### 1.4.2.4. Direct expenditure

The number of new investigations is below the number for 1996 and 1997, and the total amounts involved are also down on 1997. As in previous years, the main areas concerned were research and development aid.

### 1.5. The recovery of amounts involved

The purpose of the figures given at point 1.3 is to describe the aggregate impact of suspected and established fraud and irregularity cases. They therefore include aborted attempts at fraud and losses sustained by the Community budget that can be calculated only by extrapolation (this applies particularly to smuggling cases). Recovery, on the other hand, is no more than a compensation procedure applicable only where the operator and the amount have been identified.

#### 1.5.1. *Traditional own resources*

In compliance with Community regulations<sup>22</sup>, the collection of traditional own resources was delegated to the Member States who are obliged to take any measure so that the establishment, accounting, recovery and availability of these resources is ensured in the best conditions.

The basic problem with the recovery of own resources lies in the fact that the recovery procedure can be launched only if the duties have been established by the relevant authority in the Member State. This means identifying the operator and calculating the exact amount of the duties payable. In smuggling cases (cigarettes for instance), it is difficult or even impossible to calculate *ex post* the duties that would have been payable on a clandestine import of goods that have already been sold on

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<sup>22</sup> EC Euratom Council Decision 94/728 of 31 October 1994 on the system of the Communities' own resources (OJ L 293 of 12.11.1994) and EEC Euratom Council regulation no. 1552/89 of 29 May 1989 (OJ L 155 of 7.6.1989).

the market; if the goods are seized at the time of clandestine importation, they are usually destroyed and no duties are payable.

Where goods are imported under a preferential scheme to which they are not entitled, the main problems flow from inadequate checks carried by the Member States and from the tendency of beneficiary countries to provide co-operation too late or not at all. The result is that, even where it is found that a declaration of preferential origin is false, importers liable to pay duties are able to evade the customs debt and proceedings to recover it as a result either limitation periods or of uncertainties as to the law due to the lack of co-operation from beneficiary countries, or sometimes both.

In such cases and in the case of other sophisticated fraud linked to highly organised criminal rings, it is often impossible to obtain any form of recovery from an insolvent debtor. Hence the vital importance of tackling these rings, whatever they may be.

Following the establishment of the duties, practice demonstrates that the recovery procedure carried out under the responsibility of the member States is often slow. This is explained in particular by the time taken for administrative and judicial procedures. Also, the different interpretations of Community law by national administrations constitute obstacles to homogeneous recovery of these resources.

The Commission monitors the recovery amongst other things by means of the following instruments:

- drawing up a summary report on the notifications from member States on their inspection activities<sup>23</sup> and results;
- the statistical analysis of the "fraud" notifications (known as "sample A"), which is intended to present the general aspects of the recovery situation. A first report drafted on this basis was submitted to the budgetary authority (the European Parliament and the Council) in 1995;<sup>24</sup>
- the more detailed examination of cases of major importance selected in the course of a sampling procedure based on objective criteria<sup>25</sup> or because of their special complexity.

The summary report refers to all the irregularities established and the amounts involved, regardless of the ECU 10 000 threshold that triggers the duty to notify the Commission.<sup>26</sup> It shows that the "gross recovery rate" (recovery in the course of the year) in the Member States averaged around 23% in 1997. This rate is in line with the recovery rate of 27% recorded in Member States' formal notifications for 1998 concerning cases worth more than ECU 10 000.

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<sup>23</sup> Cf. second summary report (1997) [COM (1999)110 final of 12 March 1999].

<sup>24</sup> « Report on the recovery of traditional own resources originating from cases of fraud and irregularities (Methodology and Sample A 94) », doc. COM(95)398 final of 6 September 1995. A second report is planned for the end of 1999.

<sup>25</sup> « Report on the recovery of traditional own resources originating from cases of fraud and irregularities (Samples B94 and B98) », doc. COM(97)259 of 9 June 1997 and COM(1999)160 final of 21 April 1999.

<sup>26</sup> Article 6(4) of Council Regulation (EEC, Euratom) No 1552/89.



The financial monitoring of cases of fraud and other irregularities forming part of the B94 and B98 samples<sup>27</sup> shows that there has been definite, though still inadequate, progress in the effectiveness of recovery arrangements (the rate is up from 2% to 12%) while the rate of cases subject to limitation has fallen sharply (from 12% to 4%). But the recovery rate varies enormously according to the product and the customs scheme. In two cases of improper importation of textile products under inapplicable preference certificates,<sup>28</sup> for instance, the recovery rate is 55% and 60%, which is evidence of the feasibility of recovery as long as there is effective co-operation with the country of origin. This is further borne out by another case, also concerning textile imports,<sup>29</sup> where the recovery rate is 52%.

Article 17, paragraph 2 of Council Regulation (EEC, Euratom) No 1552/89 releases Member States from the obligation to make own resources available for the Community budget only where recovery was impossible for reasons beyond their control.<sup>30</sup> In their annual reports produced in compliance with article 7, paragraph 3 of the same regulation, the Member States must, where necessary, give the reasons which prevent them from making the own resources available to the Community budget. Between 1989 and 1998, the Commission has been notified by 7 Member States of 44 cases which they consider to be "irrecoverable". Given this low number of cases, the Commission wonders whether the Member States are complying to the letter with the obligations incumbent on them.

In order to increase the efficiency of procedures, the Commission has proposed to introduce a deadline (five years) applicable to all Member States before which they have to withdraw "irrecoverable" amounts from their accounts.<sup>31</sup>

#### 1.5.2. *EAGGF Guarantee Section expenditure*

By Article 8(2) of Council Regulation (EEC) No 729/70, in the absence of full recovery of the amounts involved, the financial consequences of fraud and other irregularities are borne either by the Community budget or by the Member State concerned if that State has not met all its obligations. The decision as to who will bear the loss is taken in the course of the clearance-of-accounts procedure.

For some years, the Commission (Directorate-General for Agriculture) has been making an effort, with the Member States, to eliminate the legacy of the past – amounts remaining to be recovered in cases of fraud and other irregularities reported in years gone by. The Commission acknowledges that recovery procedures can take time but considers that a period of four years should be enough to take the necessary measures and to ascertain that the amount involved is recoverable. If recovery is not in progress after four years and is found to be impossible, the Commission must take a decision whether the amount is to be borne by the EAGGF (recovery being

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<sup>27</sup> Cf. Annual Report 1994, chapter 6, section 2 (B94). 9 cases were selected (B98); they were reported under the mutual assistance arrangements; their total impact is ECU 136 million.

<sup>28</sup> Clothing imported from Laos textiles imported from Cambodia.

<sup>29</sup> Textiles imported from Bangladesh (case not in the B98 sample).

<sup>30</sup> In July 1997, the Commission presented a proposal for amendment of Regulation No 1552/89, still on the Council's table in 1999, to introduce a procedure whereby amounts to be charged to Member States that have not discharged all their recovery obligations can be identified more routinely and more clearly (clearance-type procedure).

<sup>31</sup> Proposal presented to the Council on 11 May 1999.

impossible for reasons beyond the Member State's control) or the Member State (where it has not done all that it should). But an exception has to be made where the recovery order is before the courts.

The fact is that the Commission's endeavours to exhort the Member States to clear the legacy of the past and raise the effective recovery rate have not yet borne fruit. The percentage of amounts still to be recovered after four years (disregarding cases before the courts) rose from 36% for cases notified before 1994<sup>32</sup> to 50% for cases notified before 1995. Of a total of ECU 1 651 million reported to the Commission from 1973 to 1994 inclusive, ECU 824 million were still unrecovered in 1998 (disregarding cases before the courts).

Since it is for the Member States to show that they have taken all the measures needed for the effective recovery of amounts involved, the Commission will have no option but to charge considerable amounts to them in the forthcoming clearance decisions if they do not prove that the amounts are objectively impossible to recover.

### *1.5.3. Structural expenditure*

As in the case of other expenditure categories, the starting point for financial monitoring lies in the reports from the Member States pursuant to Regulations (EC) Nos 1681/94 and 1831/94. But unlike the situation in other areas of the budget, individual projects cofinanced by Community Funds are generally entered in multiannual programmes, which often makes it possible to rectify the financial situation, at any event at the time of the final payment for the programme. It follows that the recovery situation can only be assessed after the programme is completed.

Looking just at the recovery situation regarding completed operational programmes or more particularly the situation of projects financed under the first framework programme (1988-93), it can be seen that ECU 44 million were recovered out of a total declared amount of ECU 123 million (about 36%). But the fact remains that the Member States very rarely report the follow-up measures taken to ensure that the financial consequences of established frauds and other irregularities can be assessed. The Member States accordingly run the risk of having the amounts remaining to be rectified overestimated by the Commission.

## **2. INVESTIGATIONS**

This chapter begins by outlining some of the most important investigations carried out by UCLAF involving networks of organised crime, regardless of the sector involved or the Community policy targeted. Subsequent sections then describe investigations aimed at protecting all Community policies: commercial policy, agricultural policy, structural policies, direct expenditure policies, i.e. those administered directly by the Commission and not through the intermediary of the Member States. In the case of some of these spending policies internal problems have been uncovered, in the form of serious irregularities and bad management within the Commission. Finally, the last section of the chapter deals with indirect taxation (fraud in the area of VAT and excise).

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<sup>32</sup> Cf. Annual Report 1997, table 4.

## 2.1. Organised crime (work of the task groups)

In certain sectors where there is considerable scope for illicit profit, the experience of the specialised task groups (for products such as cigarettes, alcohol and olive oil) has demonstrated that close co-operation between Member States and effective co-ordination at Community level, coupled with the prevention strategies developed at Community and national level, can expose major instances of smuggling.

### 2.1.1. Cigarette smuggling

#### - Operation *Rana*

In January 1998, the Spanish authorities (SVA<sup>33</sup>) seized seven lorries containing over 80 million cigarettes which were about to be smuggled into Spain. In a related operation the *Rana*, a roll-on roll-off ferry, was impounded by the SVA because it had been used to land smuggled cigarettes at a small port near Barcelona. Investigations carried out under the European Union's mutual assistance arrangements revealed that the cigarettes had initially been loaded in Piraeus, Greece, and came from various ports in the United States.

The Spanish authorities requested the help of UCLAF's task group on cigarettes. After talks with the Spanish prosecutor handling the case, Commission officials carried out inquiries in Greece, Albania and the United States and produced firm evidence that the cigarettes seized had been exported from the United States to Greece, before being loaded onto the *Rana* to be smuggled into Spain, without having been legally unloaded in Albania, as claimed by the ship's owners.

In the prosecution that followed in Spain the information and evidence provided by the Commission proved decisive. UCLAF investigators presented the Spanish court with the evidence they had obtained on their missions to Greece, Albania and the United States. The accused were found guilty and given fines and prison sentences. This was a good example of effective co-operation between the Commission and the Spanish judicial authorities as well as between the Commission and the other authorities of the Kingdom of Spain and Greece.

The administrative assistance provided by the Albanian government was outstanding, and the American authorities were extremely co-operative. This was the first important case to be dealt with under the new mutual assistance agreement on customs matters between the United States and the European Communities.

#### - Smuggling in Andorra

In recent years the Commission has developed co-operation with several national departments to combat the considerable losses to the Community and national budgets caused by organised crime. Since 1996 Andorra has been identified as a major source of cigarette smuggling into the European Union, at an estimated cost of ECU 400 million in Community own resources and national duty in 1997.

UCLAF led a first mission to Andorra in March 1998, accompanied by representatives of the specialist departments concerned from Spain, France, Ireland

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<sup>33</sup> *Servicio de Vigilancia Aduanera.*

and the United Kingdom. The inquiries revealed a lack of appropriate legislative instruments in Andorra to prevent and combat fraud.

In November 1998 a Commission mission, in which UCLAF took part, visited the Andorran government and found that attitudes had changed fundamentally. This confirmed the commitment expressed by the Andorran government in July of that year to a visiting delegation from the European Parliament's budgetary control committee.

The Andorran government has enacted new legislation to combat smuggling and implement fully the existing mutual assistance protocol between the European Communities and Andorra.<sup>34</sup> In terms of Community own resources, UCLAF estimates that this improved fraud prevention policy will save ECU 75 million in customs duties in 1998. It should prevent losses of an estimated ECU 300 million in VAT and excise from the exchequers of the various Member States.

### *2.1.2. Alcohol smuggling*

The alcohol task group has been co-ordinating international investigations into fraud rings involving alcohol and alcoholic drinks since the end of 1996. Its work in 1998 revealed that several sophisticated syndicates and criminal networks active in other diversions of Community products have turned their attention to the illegal trade in alcohol (intra-Community movement of alcohol and alcoholic drinks under excise suspension arrangements), targeting countries with the highest rates of taxation.

The most important case handled by the task group in 1998 involved breaking up a crime syndicate responsible for removing 1.5 million litres of anhydrous alcohol from intra-Community movement of goods and diverting it to Eastern Europe.

A second important case involved removal from intra-Community movement of 150 000 litres of anhydrous alcohol and spirits diverted towards markets in Northern Europe.

Several types of irregularity were exposed in this case. A first type involved the export of alcohol from Italy to countries of Eastern Europe, using administrative accompanying documents stamped as if the alcohol had already left the Community. In practice the consignment was withdrawn from transit and transported illicitly to Scandinavia. This type of trafficking is in decline because it is relatively easy for the customs investigation units to find out where goods are exported to.

A second type of irregularity involves falsely declaring the alcohol as tomato sauce or miscellaneous goods on the transport documents. The accompanying documents drawn up at the distillery of origin are falsely stamped with the name and registration number for indirect taxes of a fictitious recipient of the goods in another Member State.

Finally, the third type of irregularity consists of physically simulating alcohol exports. For example, UCLAF has found cases of empty lorries being sent from Italy

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<sup>34</sup> The laws on customs fraud and the control of sensitive goods were published in the Andorran Official Journal on 4.3.1999. The law amending the criminal code and making smuggling a crime was published in the Andorran Official Journal on 7.7.1999.

to Slovenia and the accompanying documents being stamped at the border. These fake exports create a quantity of undeclared alcohol that is available for sale on the black market in Northern Europe. In this case UCLAF co-ordinated the exchange of information that led to the arrest in Slovenia of the financial powers behind the crime syndicate, who were accused of laundering the proceeds from the fraud.

Most recently, in November 1998, the task group received information from the Italian authorities about a second investigation into alcohol smuggling in the United Kingdom and Ireland. The task group co-operated with the investigations in Italy, France, the United Kingdom, Ireland, Belgium and the Netherlands. The result was the dismantling of a crime syndicate based in Italy, responsible for exporting alcoholic drinks from the United Kingdom to the Netherlands and Belgium and then reintroducing them into the UK and Ireland, using false Italian transport documents produced by the syndicate. The ongoing inquiries suggest that the fraud involves around 150 000 litres of anhydrous alcohol.

### 2.1.3. *Adulterated olive oil*

The corresponding section of the 1997 annual report<sup>35</sup> outlined a case of diversion of goods which illustrated the method used by criminal networks to introduce hazelnut oil from Turkey into the European Union in order to mix it with olive oil and thereby illicitly benefit from Community consumption aid.<sup>36</sup> The hazelnut oil, brought in through various ports in Northern Europe and declared as vegetable oil or sunflower oil, was transported in tanker lorries (usually French) to olive oil-producing countries.

The olive oil task group continued its investigations into the case of olive oil adulterated with hazelnut or sunflower oil, looking mainly into the network's Spanish connections. The success of the French customs investigation service in identifying all of the consignments and end-consignees led to further developments in 1998. The investigation was led by the tax department of the Spanish *Guardia Civil* and focused on three Spanish firms previously identified as recipients of the hazelnut oil.

The investigation revealed the following circuit: after being cleared through customs in Northern Europe by various companies based in tax havens and represented by Swiss trust companies, the hazelnut oil was sold to a Swiss firm which invoiced it as olive oil to three Spanish companies, all controlled by one person, the owner of a production plant.

Most of the oil, which appears in the stock records of the Spanish end-consignee as "oil from Tarragona", was mixed in its factory in proportions of between 15% and 50% with olive oil purchased on the Spanish market. The records of the three Spanish firms thus show no particular anomaly, as none of them appears to have ever bought or received any hazelnut or sunflower oil.

The adulterated product was then sold on to various Spanish production and bottling companies which marketed it as olive oil, wrongly benefiting from Community funds

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<sup>35</sup> Chapter 2, point 2.1.2.2, page 23.

<sup>36</sup> Council Regulation (EC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the common organisation of the market in oils and fats (OJ L 210, 28.7.1998).

provided in the form of consumption aid. A large-scale police operation involving the companies that received the adulterated oil led to 13 arrests.

Further inquiries revealed that the principal companies in this network were run by the same person.

Depending on the final volume of adulterated olive oil placed on the market (which is still being assessed) and the varying proportion of hazelnut oil mixed with the olive oil, the investigations suggest that between ECU 8 and 14 million was wrongly obtained in consumption aid (depending on the rate of incorporation of other oil in the olive oil). The main perpetrators of this fraud have been arrested and charged.

## **2.2. Fraud affecting Community policies (by budget sector)**

Fraud targeting Community policies not only damages the Community budget but also undermines the credibility of the Community itself. The Commission is therefore striving to safeguard its policies on the ground, working closely with the specialised agencies of the Member States which have all the necessary resources, particularly manpower, to protect the Community's finances.

### **2.2.1. Preferential origin (own resources)**

The Commission is determined to protect the system of Community trade preferences and to investigate cases of unwarranted preferential treatment. As the Court of Auditors has already pointed out in its annual reports, the systems of preferences which apply to developing countries and other beneficiaries are particularly susceptible to fraud and irregularities. The Commission acts as co-ordinator of the action taken by Member States and, in particular, arranges Community administrative and investigative visits to third countries. The visits are carried out in co-ordination and close co-operation with the competent authorities of the Member States.<sup>37</sup>

The most common type of offence is the incorrect attribution of preferential origin to goods declared for import into the Community, and the production of incorrect documentation and/or false certificates of origin or, most commonly, certificates of origin obtained from the authorities in the beneficiary countries on the basis of false declarations made by operators.

The investigations in these types of cases can involve several Member States and more than one non-Community country and tend to be long and complex.

Although the Commission has negotiated administrative co-operation arrangements with all the beneficiary countries to which it accords preferential tariffs, each country retains control of the legal system in which inquiries involving contentious transactions are conducted. When collecting evidence, Community investigators are very much at the mercy of external factors such as political or commercial interest, the effectiveness of the local legal system and the effectiveness and goodwill of the local administration.

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See the Court of Auditors' Annual Report concerning the financial year 1994, OJ C 303, 14.11.1995, point 1.21, page 26.

For this reason, the Commission has always insisted on the fact that importers should be entirely responsible for the accuracy of the import declarations made in their name, holding them financially liable for any payments evaded at the expense of the Community budget.

The investigations carried out by the Commission and the authorities in the Member States in recent years suggest that the losses are substantial and increasing.

#### 2.2.1.1. Car imports

Co-operation between the Commission (UCLAF) and the customs authorities in the Member States and Hungary led to the exposure of the use of false declarations of Hungarian origin by a Japanese car manufacturer involving 58 000 vehicles imported into the Community. Customs duties of 10% were evaded as a result, representing a loss of ECU 32 million to the Community budget.

The customs agreement between the European Community and Hungary provides for vehicles from Hungary to be imported into the Community without import duty if they have a certificate of Hungarian origin, but on condition that non-originating parts (i.e. parts from countries other than Hungary or the European Union) account for no more than 40% of the value of the finished product. However, the Japanese manufacturer, which had relocated production to Hungary in late 1993 to make increasing use of Hungarian and Community sub-contractors, failed to comply with these requirements in the first years of production. It therefore applied to the Hungarian authorities for EUR1 certificates attesting to the Hungarian origin of the vehicles, to which it was not entitled.

By declaring the vehicles to be of Hungarian origin, when in fact a majority of the parts used in their production were Japanese, the European importers and subsidiaries of the group wrongly benefited from an exemption from customs duties on vehicles imported into 14 Community Member States between 1994 and 1997. The fraud affected more than half of the vehicles involved, some 58 000 vehicles out of a total of 98 000 imported between 1994 and 1997.

The Member States initiated proceedings to recover customs duties from the subsidiaries and importers liable. The fraud was detected after inquiries conducted by UCLAF and the customs authorities of the Member States. Council Regulation (Euratom, EC) No 2185/96 concerning on-the-spot checks and inspections carried out by the Commission<sup>38</sup> was applied to a German operator, in conjunction with the German customs authorities. The customs co-operation with the Hungarian administration amply demonstrated its commitment to the pre-accession process.

#### 2.2.1.2. Garlic imports from China

In 1993 the Commission introduced a system of import certificates to check imports of garlic from China.<sup>39</sup> Statistics collected by the Commission or obtained from commercial sources showed a sudden increase in imports of garlic from certain non-

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<sup>38</sup> OJ L 292, 15.11.1996.

<sup>39</sup> The current protective measure appears in Regulation (EC) No 1137/98 of 29.5.1998 (OJ L 157, 30.5.1998), which limits to 12 000 tonnes the amount of garlic from China covered by import licences (for the twelve months up to 31 May 1999).

Community countries which had previously exported little or no garlic to the Community. The non-Community countries in question (Iran, the United Arab Emirates, then Malaysia and most recently Jordan and India) were all located along the route used for transporting goods from China.

The Commission suspected that the restrictions on imports of Chinese garlic were being evaded by falsely declaring the country of origin. In the case of Malaysia, for example, the authorities there confirmed that Malaysia produced no garlic whatever.

UCLAF co-ordinated inquiries, for example in the Netherlands, Belgium and Italy. The investigations carried out in several Member States concluded that the consignments in question had indeed been loaded in China. False or invalid documents were presented to the European importers. The Commission and the Member States are continuing to monitor imports from non-Community countries in this sector to detect any further irregularities.

A Dutch importer is already being prosecuted following seizure of 260 tonnes of garlic by the Portuguese authorities. In Italy, proceedings against importers led to the seizure of 1-100 tonnes of garlic. The impact of this fraud is not measured in terms of customs duties evaded, because the rates applying to China are identical to those for other non-Community countries, but in terms of distortion of the Community market for garlic. Preventive measures have also been adopted to avoid further surplus quantities of Chinese garlic entering the EU market. The legislation was amended to require certificates of origin for certain countries like Malaysia, the United Arab Emirates and Iran, and significant reductions in imports immediately followed.

#### 2.2.1.3. Chinese textiles

Irregularities in this sector seem to have increased over the past few years.

Such cases involve a false declaration by an importer relating to the origin of its goods, the effect of which is to evade the quantitative restrictions imposed in the provisions on the issue of import licences for the European Union and avoid import duties or anti-dumping duties.

This sort of fraudulent practice give the perpetrators a decisive commercial advantage: the combination of zero or reduced import duties and absence of quantitative restrictions gives perpetrators an immediate commercial edge over operators who respect the rules.

A good example is the case of Chinese textiles transhipped via the Maldives. A Community mission established that a cargo of some 18.5 million T-shirts, imported into the European Union as originating from the Maldives, had in fact never entered Maldives territory. Subsequent inquiries by the customs investigation services of UCLAF and the Member States concerned, with the co-operation of certain authorities in non-member countries, established that the goods in question were originally dispatched from the People's Republic of China. The initial false declaration, claiming the goods originated in the Maldives, served the dual purpose of allowing a preferential tariff to be wrongly claimed and evading the import quotas applying in the Community to Chinese textiles.



#### 2.2.1.4. Imports of tinned tuna from Turkey<sup>40</sup>

New findings in 1998 indicated that the fraud uncovered in 1996 had started up again. There had always been a risk that the practice might be resumed, and it was necessary to carry out new checks.

In June 1998 the Community mission confirmed that, despite the findings in 1996, the Turkish exporters were continuing their illegal activities. An analysis of the accounting documents presented to the Turkish authorities and the Community investigators as proof of the origin of the products exported revealed that some of the documents did not reflect the operations that really took place. These conclusions were subsequently confirmed by evidence collected in the course of investigations in France and Spain, under Regulation No 2185/96 concerning on-the-spot checks carried out by the Commission. The Member States were invited to initiate recovery procedures and to take all the necessary steps relating to these imports.

#### 2.2.2. *Common Agricultural Policy*

##### 2.2.2.1. Exports of meat to Jordan

Post clearance examination of the volume of exports of beef and veal to Jordan revealed an increase in tonnage since 1991 which bore no relation to local consumption. The absence of a mutual assistance agreement with Jordan and the lack of any firm evidence of irregularities prevented an inquiry being launched immediately. More recently, however, UCLAF received conclusive evidence of the suspected fraud, which persuaded the Jordanian authorities to authorise a Community mission to carry out inquiries on the spot.

Once all the relevant documentation had been collected from the Member States concerned, inquiries were carried out in Jordan in February-March 1998 which revealed that some 38 000 tonnes of beef and veal and 3 300 tonnes of poultry cleared through customs were not intended for domestic consumption: the proof of arrival at destination supplied to the paying agencies in order to obtain refunds was forged or incomplete.

In most cases the local operator submitted a draft import declaration to the customs authorities in order to obtain a registration number. It then immediately applied to cancel the procedure and had a transit re-export document drawn up. Accordingly, no customs duty was charged and even though the customs documents bore no signature for final acceptance of the goods, the European exporters received a duplicate of the document cancelled immediately after issue as proof of arrival.

In other cases a transit declaration was drawn up at the outset. At the request of the exporters, accredited international control and supervisory agencies produced a certificate of release for home use, referring specifically to the transit declaration, despite the fact that there can be no doubt about the nature and purpose of the transit declaration.

In fact, the competent officials of the Jordanian administration normally issue a certificate of completion of import formalities to the operators, once the customs

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<sup>40</sup> See 1996 Annual Report, Chapter 3, point 3.2.2, page 33.

clearance procedure has been completed, but the exporters obviously never made use of this regular procedure.

In all but two of the transactions in question the final destination of the goods was Iraq. In order to circumvent the embargo the operators involved were pretending to clear the goods through Jordanian customs and obtaining refunds as a result. The refunds wrongly obtained by exporters in the case of these operations amounted to around ECU 65 million.

#### 2.2.2.2. Wine exports<sup>41</sup>

The investigations into fictitious wine exports to Eastern Europe were extended to include all exports of wine in bulk from Italy enjoying refunds between 1992 and 1995. These investigations are now complete.

Missions to various Member States (France, Greece, Italy) and non-member countries (Slovenia, Croatia, Romania, Macedonia<sup>42</sup> and Russia) revealed irregularities in the way a large proportion of the wine exported (80%) was placed on the market at its destination. The wine, accompanied by forged documents or inaccurate certificates had been subject to the temporary import regime and subsequently re-exported, or unloaded as contraband.

Another 10% of the wine was never unloaded at the ports of destination and was diverted to Switzerland, a destination for which no export refunds are payable. Forged proof of release for consumption was then presented to obtain refunds.

The remaining 10% of the wine was found to be a substitute product, the nature and characteristics of which rendered it ineligible for export refunds.

These irregularities affected 80% of total wine exports from Italy (350 000 hectolitres). Four companies were involved, two of which have direct links with organised crime. Proceedings have now been started to recover ECU 6.5 million in wrongly paid refunds.

Judgement is about to be passed in the case against the firms involved. The Commission is working with the judicial authorities, and the UCLAF officials who carried out the investigations have testified before the court on behalf of the prosecution. The documents and statements collected during missions to the non-member countries have been admitted as evidence for the prosecution.

#### 2.2.2.3. Potatoes and starch

The reports on the market in starch at the end of 1997 suggested that the Netherlands, traditionally an important producer of starch, had recorded a surplus of approximately 200 000 tons of potatoes intended for starch production. These potatoes could not be accepted by the processing industry because the national starch quota had already been filled.

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<sup>41</sup> See 1996 Annual Report, Chapter 3, point 3.1.6, page 32.

<sup>42</sup> Export refunds were abolished for these countries by Commission Regulation (EC) No 213/94 of 31.1.1994 amending Regulation (EEC) No 2137/93 fixing the export refunds in the wine sector (OJ L 27, 1.2.1994).

At the beginning of 1998, UCLAF was told that this potato surplus seemed to have disappeared from the Dutch market. It was suspected that part of the surplus had been taken to Germany, where there was a shortage.

The Commission accordingly contacted the German authorities, and UCLAF conducted inquiries in the German starch industry, in conjunction with the competent national authorities.

The investigators found a number of irregularities and were able to show that large quantities of potatoes of Dutch origin, intended for starch production, had indeed been sent to Germany. They had been delivered to German firms and processed into starch with the help of Community aid.

Wrongly paid aid worth ECU 1.5 million has already been recovered by the German authorities. The joint investigation by UCLAF and the German authorities is still under way, and the final total of all the sums involved, including the amounts wrongly paid and the fines provided for in Commission Regulation (EEC) No 97/95,<sup>43</sup> should be several million ECU's.

#### 2.2.2.4. Milk quotas

Working with the British Intervention Board, UCLAF carried out an inquiry into a company in Northern Ireland relating to suspect sales of milk and milk products by this firm to a subsidiary in Ireland: Company records and documentation relating to milk sales were examined and comparisons showed discrepancies in the fat content declared for large quantities of cream sold in the period 1995-1997.

A parallel investigation at the premises of the subsidiary in Ireland revealed systematic under-declaring of the fat content of milk imports, thereby circumventing the tax normally payable, which goes to the Community budget. The company in Northern Ireland was overstating the fat content of its cream deliveries. This enabled it to conceal extra amounts of fat in its milk/fat balance, thereby concealing the fraud from checks which looked only at fat entries and exits.

A detailed study of the records of the producer, carried out by UCLAF and the Irish Ministry of Agriculture, revealed that the fat content of the milk had been under-declared during the 1995-96 and 1996-97 marketing years, leading to losses of ECU 2.2 million to the Community budget, which were recovered from the company concerned in May 1998.

#### 2.2.3. *Structural policies*

##### 2.2.3.1. Funding of colleges by the European Social Fund (ESF)

With the agreement of the British authorities, a college was involved in 10 projects during the period 1994-96, receiving ESF funding worth a total of ECU 2.1 million.

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<sup>43</sup> Commission Regulation (CE) No 97/95 of 17.1.1995 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the minimum price and compensatory payment to be paid to potato producers and of Council Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch (OJ L 16, 24.1.1995).

Following suspicions about irregular practices and mismanagement of the funds by the college, UCLAF carried out checks on all of the institution's activities, with the help of the national authorities.

UCLAF ascertained that the ESF funds had been improperly used in that there was nothing to distinguish either the content of the ESF courses or the students involved from the normal activities of the college. The students were chosen at random from the college's database and their departments were not even aware of their status. In fact it was impossible to identify any ESF course.

The Commission instituted the administrative procedure provided for in Article 24 of Council Regulation (EEC) No 4253/88,<sup>44</sup> for the reduction, suspension or cancellation of assistance and the recovery of amounts received unduly. The United Kingdom was asked to review its criteria for approving such projects in cases where, because of the nature of the educational institution, for example, the ESF project cannot be clearly distinguished from the institution's main activity. Checks on ESF projects by the national authorities should also be reviewed. It will be extended to another twenty colleges in the United Kingdom where the same sort of irregularities could have occurred.

This case illustrates the need for thorough national checks at the different stages of the projects financed by the Structural Funds. The Commission must intervene when these checks prove inadequate.

#### 2.2.3.2. European Social Fund: Netherlands, Rijnmond & Gelderland Regions

In 1998, a Commission audit in the Rijnmond and Gelderland Regions of the Netherlands concerning vocational training schemes cofinanced by the European Social Fund revealed irregularities.

After analysing the situation, the Commission extended the audit to other projects and asked the Dutch authorities to audit all actions cofinanced in the relevant regions.

The results of the additional audits confirmed that there were irregularities on a larger scale (artificial padding of expenditure, public cofinancing and the number of hours of training courses) and revealed problems with the operation of the national auditing system.

The procedures of Article 24 of Council Regulation (EEC) No 4253/88 for the suspension, reduction or withdrawal of assistance worth approximately ECU 2.5 million are in motion.

There have been contacts between the Commission and the Dutch authorities, and it has been agreed that these authorities will forthwith establish facilities for reporting irregularities established not only in the ESF context but across the range of structural measures, in accordance with Regulation (EEC) No 4253/88, as amended by Regulation (EEC) No 2082/93,<sup>45</sup> and with Regulation (EC) No 1681/94.

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<sup>44</sup> OJ L 374, 31.12.1988, p. 1-14.

<sup>45</sup> OJ L 193, 31.7.1993.

Judicial action is also under way.

### 2.2.3.3. EAGGF Guidance Section

The investigations begun in 1997 into pilot projects and demonstration projects financed under Article 8 of Council Regulation (EEC) No 4256/88,<sup>46</sup> as part of the EAGGF Guidance Section, are still under way and have been extended to new projects.

They have confirmed the results of earlier inquiries pointing to the existence of networks of firms linked by the same owners or managers. Several of these are offshore companies, set up at the same time as the projects were approved with the sole aim of obtaining Community funds for virtually non-existent services. The funds in question circulated among the various companies until some escaped from the circuit.

These financial movements were made possible by numerous fictitious internal invoices, without any prior agreement or contract, sometimes even without the necessary operational and/or technical capacity. There was none of the private joint financing required by the Commission. Only a small proportion of the expenditure could actually be accounted for. There was systematic falsification, over-charging and invoicing between companies in the same networks for non-existent services. The inquiry also revealed the involvement of the lobby groups, similarly operating offshore, providing the interface between the recipients and the Commission.

The Commission referred matters to the competent authorities in Spain, Italy and Portugal in 1997, and the judicial inquiries in these countries are still under way. In 1998 the Commission referred other projects under Article 8 of Regulation No 4256/88 to the French judicial authorities.

In addition, in accordance with Article 209a of the EC Treaty,<sup>47</sup> UCLAF brought together the investigating magistrates from the five jurisdictions concerned to obtain information about the judicial investigations and ensure their co-ordination.

Investigators also discovered that some of the networks of companies who benefited from these projects had also received aid in connection with projects in the research field, which had themselves been referred to the judicial authorities in Italy.

One of the prosecutor's offices working on this case has already initiated judicial proceedings against the organisers involved in the network.

The Commission also invoked Article 24 of Council Regulation (EEC) No 4253/88 to set aside the decisions and recover the sums unduly paid, as soon as the results of the enquiries relating to each project warranted it. To this end, with regard to 20 projects which are the subject of the judicial investigations mentioned above, the Commission has taken 19 decisions to withdraw support and proceed to recovery involving a total amount of 10 683 525 ECU's.

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<sup>46</sup> OJ L 374, 31.12.1988, p. 25.

<sup>47</sup> Corresponding to Article 280 in the new Treaty of Amsterdam, which entered into force on 1 May 1999.

#### 2.2.3.4. PIC LEADER I

Information received as part of the investigation under Article 8 of Regulation No 4256/88 and analysed at UCLAF level, relating to Italian projects financed under the LEADER I Community Initiative,<sup>48</sup> prompted the Commission to open a new inquiry into this subject.

The specific purpose of this inquiry was to check any overlap of the Funds between Article 8 projects and projects financed as part of PIC LEADER I.

An on-the-spot control revealed serious problems. Much of the expenditure claimed related in fact to the operating costs of the company running the project. There was also some confusion between the programme management and private interests. In the case of several measures or projects the agreements with beneficiaries had been signed outside the period of eligibility. All of these measures or projects were thus ineligible.

The cancellation of numerous projects produced an extremely low implementation rate. Once operating costs, ineligible projects and studies were excluded, the real rate of project implementation was much lower than the initial rate proposed in the programme. The amount committed under the PIC LEADER I project was ECU 2 million.

#### 2.2.3.5. Financial Instrument for Fisheries Guidance (FIFG) – aquaculture – overinvoicing of equipment

UCLAF opened an investigation into this subject on the basis of information assembled by the Commission regarding assistance towards investments in aquaculture under Council Regulation (EEC) No 3699/93.<sup>49</sup>

Projects submitted by Greece were being cofinanced 34% by the Community budget, 11.3% by the domestic budget, and the rest by private investors.

The Commission's investigation showed that there was very significant overinvoicing of one item of aquaculture equipment coming from another Member State (Ireland). The invoices made out by the supplier in question amounted to ECU 2 287 000 for five of these projects.

Invoices from the same supplier for other projects cofinanced by the FIFG were discovered in the first Member State mentioned and in a third Member State. Enquiries are continuing with a view to determining the total sum misappropriated.

The investigation has shown that the practice was initiated by the supplier's local representative in the Member State of the beneficiaries of the project, who was not officially a party to the transaction. Supplier and recipients both benefited: one found

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<sup>48</sup> Community initiatives are specific instruments of the Communities' structural policies. The LEADER I initiative, launched in 1989, supports rural development projects designed and run by local partners, with an emphasis on measures that are innovative, have a demonstration value and are transferable.

<sup>49</sup> Council Regulation (EEC) No 3699/93 of 21.12.1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (OJ L 346, 13.12.1993).

customers for the product, and the others obtained Community and national financing covering the whole cost of these invoices.

With the structural funds as elsewhere, a fraud originating in one Member State may necessitate enquiries in other countries too. This investigation shows that where Community cofinancing is available for investment in firms working at a local level, cases which at first sight appear to be purely local can prove to have ramifications in several Member States.

#### 2.2.4. *Direct expenditure*

Direct expenditure is expenditure which beneficiaries draw on in the form of grants or contracts directly administered and controlled by Commission departments. In 1998 it accounted for some 13% of Community spending. This area has been the subject of extensive debate among the institutions and the public. Member States play no direct part in spending of this kind, and it is for the institutions to see to it that any cases of fraud and irregularity detected are prosecuted. The Court of Auditors and the Commission cooperate here: under agreements between the two institutions, UCLAF at the Commission is formally notified of any irregularity which comes to light in the course of a Court inspection.

It is well enough known that following several investigations carried out in the Commission departments a number of cases of serious irregularity and mismanagement were identified by UCLAF.<sup>50</sup> The problem of irregularities in the management of Community programmes such as ECHO or Leonardo was raised in the European Parliament.

##### 2.2.4.1. The Leonardo da Vinci vocational training programme

The Commission launched the Leonardo da Vinci programme in 1995; the programme was intended to implement a vocational training policy which would underpin the measures taken by the Member States in this area.

Tenders were called for, and a contract was concluded with a Belgian company, under which a technical assistance office was to assist the Commission with the administration of the programme, for a fee of about ECU 7 million a year (these offices are commonly referred to by the French acronym BATs (*bureaux d'assistance technique*)).

In 1997 and 1998 Commission inspectors examined the administrative and practical operation of the company handling Leonardo da Vinci, and concluded that there was a lack of internal control of financial transactions and poor supervision of operations, which left open the possibility of irregularities within the BAT.

Commission controls also detected irregularities in the company.

After full investigation UCLAF identified four cases of irregularity containing elements liable to lead to criminal proceedings and passed the documents in these cases to the Belgian law enforcement authorities. A judicial investigation is under way.

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<sup>50</sup> See point 2.2.5 below.

#### 2.2.4.2. Research in telecommunications

On the basis of observations made by the Court of Auditors to the responsible Member of the Commission, the Commission departments carried out a series of investigations into contracts between the Commission and two Greek groups of companies.

It found that the two groups, which were both composed essentially of small or medium-sized enterprises, had concluded a very significant number of contracts on different legal bases with a wide range of Commission Directorates-General.

The first group comprised two small Greek companies and was party to 17 contracts, mainly cost-shared research contracts, under three different sets of legislation, with three different Directorates-General; the extra cost to the Commission was over ECU 4 million.

The second group comprised three small companies, two in Greece and one in Belgium, and had been party or was currently party to 21 cost-sharing contracts with four separate Directorates-General, and seven other contracts under the PACT<sup>51</sup> and Leonardo<sup>52</sup> programmes. The total cost of these projects to the Commission was over ECU 6 million.

The results of the Commission investigations into the two groups, in which the Commission investigators were accompanied by representatives of the Greek authorities, confirmed that the two groups had submitted costs which could not be documented and which had been systematically inflated.

Despite the fact that the two groups did not submit the appropriate financial or banking documents, the investigators established that the costs declared for labour and overheads bore no relation to the real costs incurred. In one group the labour costs specified in the contracts were on average five times the salaries actually paid to the managers and employees. The other group had irregularly retained funds intended for other partners in respect of certain projects.

The fact that no proper documentation was submitted gives the Greek authorities grounds for undertaking additional investigations into possible tax evasion. The Commission has put an end to its contractual relations with the two groups of Greek companies and has issued orders for the recovery of the sums unduly paid.

#### 2.2.5. *Investigations with internal aspects*

Following various investigations into expenditure managed directly by the Commission, UCLAF dealt with several cases of mismanagement in which there were solid suspicions of serious irregularity. Some of these had internal implications. The Commission reviewed the procedures for investigations of this kind and on 14 July 1998 adopted a decision on UCLAF inquiries.<sup>53</sup>

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<sup>51</sup> Council Decision 93/45/EEC (OJ L 16, 25.1.1993, p. 55).

<sup>52</sup> Council Decision 94/819/EC (OJ L 340, 29.12.1994, p. 8).

<sup>53</sup> C(1998) 2049/5, 13.7.1998.



#### 2.2.5.1. Contract for guarding Commission buildings

In August 1997 reports appeared in the Belgian press alleging improper personal involvement in the award of the contract for guarding the Commission buildings in the period 1992-97; an investigation carried out by UCLAF in association with the Commission Financial Controller's department concluded in the existence of irregular practices.

The contract was worth ECU 80 million over five years, and the contractor had been selected by invitation to tender, after consulting the Advisory Committee on Procurement and Contracts (ACPC, also known by its French acronym CCAM), the committee which seeks to ensure the regularity of the procedures for Commission contracts.

Investigation inside the Commission departments, and especially in the Security Office, the department responsible for implementing and supervising the contract, led to initial findings that the internal procedural rules had been infringed:

- agreements supplementary to the contract had been concluded, in the form of annexes containing clauses not in accordance with the contract itself as it had been approved by the Commission's specialised departments, the Advisory Committee and Financial Control;
- staff were being employed to perform administrative tasks in the Security Office without going through the procedures for the recruitment of outside service providers, who may be recruited for such work in exceptional cases.

The investigation into the company which had secured the contract continued and ultimately established that there had been irregularities at the different stages of processing of tenders and drafting and implementation of the contract.

The conclusions of the investigation were passed to the Public Prosecutor of Brussels, who at the beginning of 1999 launched the first enquiries in a judicial investigation intended to establish whether there was any personal liability in the Commission or in the company.

At the same time the Commission initiated disciplinary proceedings against four officials.

#### 2.2.5.2. Embezzlement of funds for external aid programmes

After suspicion arose regarding the final destination of aid provided for in four contracts managed by ECHO over the period 1993 to 1995, one in the African great lakes region and the other three in the former Yugoslavia, UCLAF decided to investigate.

An initial investigation carried out in Dublin and Luxembourg in 1997 showed that part of the money had been used irregularly to finance outside staff working for the Commission both on and off Commission premises. It was also found that other Commission departments had concluded very substantial contracts with the Luxembourg company in question; these contracts represented several million ECU's over more than twenty years. The amount financed by ECHO to this company and the off-shore companies dependent on it was 2.4 million ECU's.

An inspection mission to the former Yugoslavia at the end of January 1998 found that the three contracts concerning that region had not in fact been performed, and that the persons and equipment referred to in the final report had not been used in the fashion indicated.

In February and March 1998 interviews took place with the officials responsible for the management of these contracts and their superiors in ECHO, which confirmed that the contracts were used to finance, in part, irregularly the recruitment of outside staff (some 31 *extra-mural* and *intra-mural* persons were, in fact, used in the running of ECHO in Brussels between 1992 and 1995, as before that, in the early years of its development ECHO received insufficient personnel resources). Despite efforts to reconstruct the expenditure in the absence of adequate documentation, the use made of the whole of the funds has not yet been explained, and estimates fall short of the sums actually spent.

Between the end of March and the beginning of May 1998 an on-the-spot check was carried out under Regulation No 2185/96 into the Luxembourg company which had handled the implementation of the four contracts in question. No accounts were presented to the inspectors to document the amounts spent under the contracts.

In another aspect of this case, examined at the end of June 1998, it was found that an ECHO official who was responsible for managing expenditure in connection with the four contracts had benefited from payments from companies directly involved in the operation, for work which had apparently never been carried out. The official was suspended in mid-July 1998, and was subsequently dismissed with the loss of part of his pension rights.<sup>54</sup>

Other investigations carried out at the end of August and the beginning of November 1998 showed that payments had been made to two other Commission officials working in departments other than ECHO by companies which were controlled by the Luxembourg company that had been the subject of the on-the-spot check, in consideration of services rendered which were minimal or non-existent. The two officials were suspended; one has since been downgraded, while disciplinary proceedings against the other are still in progress.

All the files containing elements liable to lead to criminal proceedings have been sent to the Office of the Public Prosecutor in Luxembourg.

### **2.3. Indirect taxation: VAT**

The significant losses of VAT revenue as a result of transnational fraud which were highlighted in last year's report<sup>55</sup> continued and indeed grew in 1998. The Commission supported a number of measures aimed at fighting fraud in respect of such things as precious metals, computer components and motor cars. One of the biggest operations concerned mobile telephones.

#### *The mobile phones case*

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<sup>54</sup> The director of ECHO at the time the events took place was also the subject of disciplinary proceedings which found no evidence against him.

<sup>55</sup> Annual Report 1997, Chapter 2, point 2.3, p. 33.

Fraud in respect of mobile telephones affected almost all Member States in 1998, the total amount involved being estimated at ECU 100 million. UCLAF held two meetings with Member States' investigators in order to exchange information regarding the techniques used and the identities of its organisers.

The rules on VAT in the single market had been evaded by a network of criminals who bought and supplied telephones without paying VAT. In November 1998 a co-ordinated operation was mounted by the Member States involving Belgian, Danish, German, Spanish and UK officials; this resulted in ten arrests in the United Kingdom and Spain, and the seizure of substantial sums in cash and a large quantity of mobile phones.

The mobile phone business is one of the most seriously affected by circumventions of the VAT rules, and investigations are continuing in order to limit the losses, which affect both Community and national budgets: in the United Kingdom alone the loss associated with this fraud is estimated at ECU 1.4 million a month.

### **3. MAIN DEVELOPMENTS IN THE PROTECTION OF THE COMMUNITY'S FINANCIAL INTERESTS**

This Chapter outlines recent developments in which the protection of the Communities' financial interests is being incorporated into the legislation governing aid and cofinancing for measures benefiting Member States under the major Community policies.

It describes progress in the customs sphere, with the reform of the Community transit system, and goes on to look at the Community's trade policy, indirect taxation, agriculture and the structural policies. It reviews the situation with regard to criminal provisions protecting the Union's financial interests.

The Chapter concludes by comparing the reports that Member States have sent the Commission, in accordance with the conclusions of the European Council,<sup>56</sup> on the measures they are taking to prevent fraud and irregularity at the expense of the Communities' financial interests.

#### **3.1. Reform of the Community transit system**

In its communication to the European Parliament and the Council, *Action Plan for Transit in Europe: A new customs policy*, the Commission set out practical measures to restore the transit arrangements to security and effectiveness.<sup>57</sup>

Implementation of this action plan will require changes to the rules, new organisational measures to improve the management of supervision of procedures by national administrative authorities, and further progress in the computerisation of transit procedures will have to be pursued at the same time.

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<sup>56</sup> Council conclusions of 11 July 1994 concerning the fight against fraud, OJ C 292, 20.10.1994. See also the summary of the comparative analysis in COM(95) 556 final.

<sup>57</sup> COM(97) 188 final, 30.4.1997; OJ C 176, 10.6.1997, p. 1.

### 3.1.1. *Legislative measures: provisions applying the Community Customs Code and the Common Transit Convention*

Work being done since 1997 on the reform of the transit regulations culminated at Community level in a new Regulation<sup>58</sup> to clarify and improve the basic rules on the discharge of transit formalities and the responsibilities of holders of transit documents, financial guarantees, Community supervision of simplified procedures and procedures for the recovery of the debt that can be generated by a Community transit operation.

The Commission also proposes to change the provisions implementing the Community Customs Code and the appendices to the Common Transit Convention (the Convention of 20 May 1987), following an approach common to the two transit systems, Community transit and common transit.<sup>59</sup>

The reform of the transit systems would affect Community transit and common transit in the same way, and the proposals for the two legal frameworks are therefore the same where possible. Since the Commission's initial proposals were put forward in 1997 they have been revised several times to take account of the views and arguments advanced by customs authorities and business.

Some proposals are still being discussed with the Member States and the countries that have acceded to the Common Transit Convention, who were joined by the Visegrad countries<sup>60</sup> on 1 July 1996.

### 3.1.2. *Organisational measures*

As a result of the action plan, and the commitment shown by the heads of the customs departments concerned, several organisational measures have already been taken or are still under study which are aimed at the uniform, effective application of the regulations, closer co-operation between customs administrations and dialogue with users:

- A network of 21 national co-ordinators and 330 local liaison officers has been set up. An address book for this transit network has been distributed to all co-ordinators and liaison officers and to trade associations. It is also available on the EUROPA INTERNET server.<sup>61</sup>
- The co-ordinators in 22 countries drew up national management plans for transit procedures in 1998, on the basis of a structure and objectives agreed jointly, specifying the steps to be taken by customs administrations as a matter of priority. These measures call in particular for a reduction in the time taken to return the copy of the transit declaration, and the use of prevention and control systems such as the early warning system for sensitive goods.<sup>62</sup>
- National reports on the implementation of management and control schemes for 1998, drawn up by the customs administrations, give the Commission the means of preparing a progress report evaluating for the first time all the measures taken at European level in 1998.

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<sup>58</sup> Regulation (EC) No 955/1999 of the European Parliament and of the Council of 13 April 1999 amending Council Regulation (EEC) No 2913/92 with regard to the external transit procedure (OJ L 119, 7.5.1999).

<sup>59</sup> The "common" transit system provided for in the 1987 Convention extends the "Community" transit system to the EFTA countries.

<sup>60</sup> The Czech Republic, Hungary, Poland and Slovakia.

<sup>61</sup> <<http://europa.eu.int/en/comm/dg21/publicat/workingpapers/index.htm>>.

<sup>62</sup> A new administrative arrangement for the EWS came into operation in March 1999.

- A system of electronic transmission of prints of customs transit stamps ("TCT"<sup>63</sup>) has been operational since May 1997. The system allows all the customs departments connected to exchange prints and information regarding customs transit stamps and seals. All Community customs administrations are now connected, as are Czech, Hungarian, Norwegian, Slovak and Swiss customs.
- The Transit Contact Group has been closely involved in implementing the reform of the transit arrangements. Partnership is continuing with a view to achieving harmonious and uniform application of the new rules, particularly as regards the grant and uniform operation of the simplified arrangements.

### 3.1.3. *The New Computerised Transit System (NCTS)*

The planned new computerised transit system is now in its second phase, in which software and communications are being developed, tested and integrated in order to allow the initial application of the system.<sup>64</sup>

The first phase, the development of technical and functional specifications, fell behind schedule, and to make up the time it was decided that initial implementation would be confined to five countries, namely Germany, Italy, the Netherlands, Spain and Switzerland, and that the only messages to be used would be those which were indispensable to the supervision of transit operations, namely the acceptance of a transit declaration, the transmission and acknowledgement of an anticipated arrival message, the transmission of an arrival advice message, and the results of simplified controls and procedures.

The Commission has also developed a "minimal common core" to be provided to countries that have not developed their own transit applications.

The reform of the transit arrangements is well under way. But success will depend on the commitment and continuous support of all those concerned and the application of certain measures currently under negotiation.

## 3.2. **Reform of the preferential tariff arrangements**

In a 1997 communication the Commission drew attention to the urgency of a tightening of the preferential rules, which it said would restore confidence in the system; it proposed a set of corrective measures<sup>65</sup>, comprising in particular:

- simplification of the rules of origin;
- programmes of technical assistance for the beneficiary countries;

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<sup>63</sup> Cf. Annual Report 1997, point 3.3, p. 37.

<sup>64</sup> The requisite legal basis is in place: Commission Regulation (EC) No 502/1999 of 12 February 1999 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 65, 12.3.1999); Decision No 1/1999 of the EC/EFTA Joint Committee on common transit of 12 February 1999 amending Appendices I, II and III to the Convention of 20 May 1987 on a common transit procedure (*ibid.*); and Decision No 2/1999 of the EC/EFTA Joint Committee on common transit of 30 March 1999 amending Appendix I of the Convention of 20 May 1987 on a common transit procedure (OJ L 119, 7.5.1999).

<sup>65</sup> Commission communication of 23.7.1997, COM(97) 402 final. See Annual Report 1997, Chapter 2, point 2.2.1, p. 27.

- better analysis of risk in sensitive areas;
- tighter application of the preferential arrangements.

Partly in response to the findings in that communication, the new multiannual scheme of generalised tariff preferences, which entered into force on 1 July 1999,<sup>66</sup> gave the Community greater scope for action against fraud in this sphere. It introduced a new procedure for the withdrawal or suspension of preferential treatment from beneficiary countries in the event of fraud or failure to provide administrative co-operation, which should make it possible to react quickly in such situations, especially as the Commission is empowered to take measures on a precautionary basis.

More generally, the Commission is working on a programme for the renewal of all the preferential arrangements, which as well as supplementary measures of a technical nature includes proposals aimed at:

- improving administration and the prevention of fraud;
- consolidating responsibilities, to clarify the responsibilities of operators and of the authorities in Member States and beneficiary countries;
- harmonising procedures for verification, acceptance of guarantees and recovery of unpaid taxes.

Additional measures are aimed at:

- publishing notices to importers where this is justified by the proper application of the preferential rules;
- increasing the role of the Community authorities in the issue of certificates;
- increasing the responsibility of the beneficiary non-Community country itself for preventing fraud and irregularity.

The introduction of such measures should improve the situation, but experience over many years suggests that in the last analysis it should be accepted that businesses which benefit as a result of Community preferential tariff arrangements should play their part in the effective and homogeneous management of the single market: their responsibility comes before all others.

Despite the improvements proposed by the Commission, which are currently before Parliament and the Council, the preferential arrangements are likely to remain an area of difficulty and controversy in the short term. Recent judgements of the Court of Justice<sup>67</sup> show some development in the understanding of the part played by the importer who enters into a transaction in which the preferential rules are to apply. The importer's role and liability may be examined very minutely, and it may be asked whether the importer acted in good faith in the process which led to a fraud or infringement of the rules. There are difficult questions regarding the allocation of responsibility and the legal and financial consequences of fraud and irregularity

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<sup>66</sup> Council Regulation (EC) No 2820/98 of 21.12.1998 (OJ L 357, 30.12.1998).

<sup>67</sup> Case C-86/97 *Woltmann* [1999] ECR I-1041; Case C-413/96 *Sportgoods* [1998] ECR I-5285; the *Hilton beef* judgments: Case T-50/96 *Primex* [1998] ECR II-3773 and Case T-42/96 *Eyckeler & Malt* [1998] ECR II-401; and Joined Cases C-153/94 and C-204/94 *Faroe Seafood* [1996] ECR I-2465.

which have still to be resolved. The Commission is conducting impartial investigations in many of the sectors concerned.<sup>68</sup>

In the longer term, while the World Trade Organisation envisages a gradual reduction in tariff barriers, experience in the textile trade seems to show that Community tariff preference systems are open to attempts by certain operators to take unfair advantage of the financial advantages offered, and thus to strengthen their market shares.

Outside the Union fraud may confer an undue advantage on some suppliers, who can then establish supremacy on the market, to the detriment of operators located in the least developed countries, who are intended by the Community to be the main beneficiaries of tariff preferences. In that event fraud undermines the goals of Community external trade and development policy.

### **3.3. Indirect taxation**

Regarding excise duties, the Council meeting (Ecofin) of 19 May 1998 approved a set of recommendations and broad guidelines to boost the fight against fraud and to enhance the performance of checks on movements of goods subject to them.

The problem of VAT fraud (VAT is still the largest Community own resource) is also given priority by the UCLAF *task-force*, even though the Member States are the prime victims of revenue losses here. It has emerged that VAT fraud mechanisms tend to be transnational in the several of the major cases, which raises the need for Community-level co-ordination of action undertaken by the Member States.<sup>69</sup>

The report of the high-level group<sup>70</sup> chaired by the Commission on fraud relating to excise duties on tobacco and alcohol was approved by the Directors-General of customs and indirect taxation departments in the Member States in April 1998. The observations presented in this report are based on information compiled from the Commission, the authorities of the Member States and the most representative tobacco and alcohol trade organisations. The report contains several practical recommendations proceeding from the assumption that current systems are essential to the smooth operation of the single market but show room for improvement. An example is the improvement of procedures for storage and carriage of tobacco and alcohol, in relation both to the Member States and to the Community, particularly as regards checks and controls.

The report calls on the Member States to discuss partnership agreements with producers and dealers<sup>71</sup> to step up co-operation in gathering information relating to suspect or illegal movements of cigarettes and alcohol.

Following the group's work, the Commission proposed in its communication to the Council on efforts to combat excise duty fraud<sup>72</sup> that the Council accept the group's recommendations.

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<sup>68</sup> See point 2.2.1, from p. 22.

<sup>69</sup> Cf. point 2.3, page 34.

<sup>70</sup> Cf. Annual Report 1997, chapter 3, point 3.5.1, page 39.

<sup>71</sup> *Memorandums of understanding* (MOUS).

<sup>72</sup> SEC(1998)732 final.

One of the most important recommendations made by the group, whose general conclusions were accepted by the Ecofin Council on 19 May 1998, concerned the need to set up an early warning system for movements of tobacco and alcohol<sup>73</sup> and in the longer term to set up a computerised monitoring and control system.

The Commission is embarking on measures to boost checks on warehouses and to familiarise stock managers with good practices. Thought is also being given to the development of analysis and risk-targeting techniques so as to prevent, detect and prosecute fraud. The practical framework for the operation of an early warning system has been defined. This specific system came into operation in certain Member States at the beginning of 1999. It may be reviewed in the light of experience and extended to other products if necessary, so that transport of and trade in "risk" products are subject to tighter controls throughout the Community.<sup>74</sup>

#### - VAT

Although there is only a limited number of international VAT fraud techniques, they apply to a wide variety of goods. Most of the Member States acknowledge that international VAT fraud is a serious problem, even though national VAT fraud has a greater impact in terms of lost revenue than international VAT fraud.

In any event it is only reasonable to consider the international dimension of VAT fraud so that the measures that are needed at Community level can be taken in good time. This has been confirmed in other areas, such as Community transit and excise duties on cigarettes and alcohol: waiting for a manifest crisis before taking action works to the benefit of highly organised criminals who are quick to make substantial profits to the detriment of national and Community revenues.

But the co-operation with the Commission of a number of tax authorities in order to combat specific cases of VAT fraud was unsatisfactory. The Commission deals only with fraud cases reported to it by the Member States, even though VAT fraud causes all the Member States to sustain serious losses. UCLAF's VAT team works more regularly with the authorities of the Member States that are keenest to cooperate. The co-operation is generally close and effective, and must be encouraged and extended. Consequently the Community programme FISCALIS,<sup>75</sup> adopted on 30 March 1998 by Decision of the European Parliament and the Council, provides for seminars where information can be exchanged on fraud techniques and trends and for closer contacts to boost the effectiveness of the fight against VAT fraud at Community level. Co-operation with certain Member States' judicial authorities has also been stepped up to facilitate the gathering of the evidence that is needed to commence court actions.

The nature and impact of VAT fraud are not well enough known; yet this tax finances about 40% of own resources in the Community budget and is a major source of revenue for national budgets. If the Member States do not take the necessary action to combat VAT fraud and are not in a position to collect the full amounts of

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<sup>73</sup> Cf. point 4.5, page 48.

<sup>74</sup> The Commission issued an invitation to tender and in December 1998 signed a contract with a private-sector firm for a feasibility study on computerisation of movements and supervision of excisable goods.

<sup>75</sup> Decision 888/98/EC (OJ L 126, 28.4.1998), cf. also Annual Report 1997, chapter 3, point 3.5.3, page 45.



VAT due, this can affect the relative share of national contributions to the Community budget (GNP resource): where a Member State is in default, there can be an impact on other Member States' contributions. Unlike the customs and agricultural fields, there is no obligation for Member States to report VAT fraud cases to the Commission. But there are worrying signs, some of them to be found in national reports, that there is a serious problem with VAT.

– The financial impact and the development of investigations

Since 1996, the Commission's anti-fraud subcommittee (SCAF) has been working with the Member States on an analysis of VAT fraud in the Community to identify its nature and its mechanisms. An initial analysis of 500 cases of tax evasion, with an estimated financial impact of ECU 573 million total VAT losses, identified by the Member States in 1995 and 1996 as the most important cases, showed that the entire VAT system is seriously affected by fraud.

With the tightening of controls in other areas such as Community transit and excise duties, this type of crime is expanding rapidly in all Member States and seriously threatening national and Community financial interests. The financial impact of the 500 cases reported by the Member States is ECU 739 million (1998 figure) (determined by a second analysis of fraud cases detected in the first half of 1998 - giving an average impact of well-nigh ECU 1.5 million per case).

Apart from the common types of fraud (tax evaded on sales or recovered on fictitious purchases), there is a type of fraud linked to the transit system based on the principle of taxation in the country of destination. Organised groups of criminals have set up series of transactions to take advantage of VAT exemption rules regarding intra-community sales and the rules allowing exemption for exports. The figures supplied by the Member States show that the impact of exemption-based fraud mechanisms is greater important: 250 cases reported in 1998 represent ECU 478 million (an average of about ECU 1.9 million per case).

Fraudulent transactions are based on carousels of goods and letterbox companies formed for a short period only. Fraud particularly affects products with high value added that are physically compact and easy to transport quickly (e.g. computer components, mobile telephones, precious metals).

The only way of detecting such frauds is to operate full tax checks requiring close and rapid co-operation between tax inspectors in the Member States concerned, particularly in high-risk sectors. One important factor is the possibility of undertaking simultaneous checks in several Member States. Since the FISCALIS programme came into operation in July 1998, 13 multilateral in-depth checks have been launched involving an average of six Member States.

### **3.4. The reform of financial management (SEM 2000)**

The Commission has made a detailed survey of actions started since the SEM 2000 process began.<sup>76</sup> The following salient points relating to the protection of the Communities' financial interests are taken from it.

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<sup>76</sup> SEC(1998) 1904/3, 11.11.1998. Cf. also Annual Report 1997, chapter 1, point 1.3.1, page 13.

The approach followed by the Commission, one of the effects of which was the adoption of Council Regulation (EC) No 2064/97,<sup>77</sup> was to enhance the Member States' awareness of the fact that responsibility for implementing the budget, although conferred on the Commission alone by the Treaty,<sup>78</sup> had to be shared with the Member States as they manage more than 80% of Community expenditure (agricultural policy, Structural Funds). Protocols or administrative agreements have accordingly been entered into with virtually all the Member States for co-ordination of audits.

Although Article 23 of Council Regulation (EEC) No 4253/88 requires the Member States to audit operations cofinanced by the Structural Funds, the fact remains that the Funds have no accounts clearance procedure comparable to the one for the EAGGF Guarantee Section. But Article 24 provides the possibility of reducing, suspending or withdrawing Community financial support in the event of irregularities being detected. The Commission has adopted internal guidelines for the implementation of financial corrections in this context. It will report in 1999 on the corrections made on the basis of the new guidelines.

The Commission proposal of 18 March 1998<sup>79</sup> would amend the CAP financing system based on Council Regulation (EEC) No 729/70,<sup>80</sup> which has been amended on several occasions; apart from a number of other technical matters, the Regulation spells out the obligations incumbent on recipients and the terms for giving assistance, notably as regards checks.

In 1998, attention has also been paid to implementation of the proposals in the Agenda 2000 programme and the reinforcement of co-operation with countries applying for accession.<sup>81</sup>

### 3.5. The Corpus Juris

The Commission, acting in response to Resolutions passed by the European Parliament on 12 June and 22 October 1997, has embarked on a detailed comparative study to evaluate all the possibilities of reinforcing the Community or Union-level criminal-law protection of European financial interests.<sup>82</sup> The objective of this study is also to measure the impact of the proposals set out in the *corpus juris* introducing penal provisions for the purposes of the protection of the financial interests of the European Communities. The comparative study will provide added substance for the in-depth debate now taking place in political circles (parliaments, governments) in several Member States.

Since 1998, the members of the research group set up to produce the feasibility study have been analysing the *corpus juris* in terms of the specific questions raised by each

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<sup>77</sup> OJ L 290, 23.10.1997. establishing detailed arrangements for the implementation of Council Regulation (EEC) No 4253/88.

<sup>78</sup> Article 205 EC (new Article 274 after Amsterdam which provides that 'the Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management'); Article 206 EC regarding the Commission's answerability to the discharge authority (European Parliament and Council).

<sup>79</sup> COM(1998) 158 final.

<sup>80</sup> OJ L 94, 28.4.1970.

<sup>81</sup> Cf. point 5.1, page 50. Cf. also Annual Report 1997, chapter 4, section 4.1, page 47.

<sup>82</sup> Cf. Annual Report 1997, chapter 5, section 5.6.

of its recommendations and evaluating the impact of these recommendations and their compatibility with national laws. On that basis, a comparative-law study is in the process of finalisation. Parliament gave the project its political support by a Resolution<sup>83</sup> (March/April 1998) and a public hearing organised in Brussels in November 1998.

The Commission will examine the findings of the study in 1999. It will then report its own conclusions to the other institutions (Parliament, Council, Court of Auditors, Court of Justice).

### **3.6. The comparative analysis (Article 209a reports)**

The Commission has prepared a draft report on the application of the former Article 209a of the EC Treaty regarding administrative checks and penalties, to supplement the report of November 1995 on measures taken by the Member States to counter fraud. This second report sums up the contributions sent by the Member States to the Commission on provisions governing expenditure for which they are responsible, checks on such expenditure and penalties in the event of irregularities (agricultural expenditure is not covered, as Community Regulations determine the details of control procedures applicable to EAGGF Guarantee Section expenditure). On the revenue side, the report deals only with traditional own resources.

The general conclusion from the draft report, which will be presented to the Member States in 1999, is that in-depth thought must be given to the possible value of new Community initiatives to attain the objective of effectiveness and equivalence of the protection of Community finance as required by Article 280 of the EC Treaty (formerly Article 209a).

## **4. CO-OPERATION AND PARTNERSHIP WITH THE MEMBER STATES**

This Chapter will begin by setting out some of the main initiatives taken by the Member States in 1998 to protect the Communities' financial interests and to combat financial crime and then conclude by summing up the training measures organised by the Commission.

Article 280 of the Treaty, as amended by the Amsterdam Treaty which entered into force on 1 May 1999, offers new prospects for co-operation in the broadest sense with the Member States, and a section of this Chapter is devoted to the question.

Judicial co-operation in criminal matters is central to the protection of Community interests. The point is to see that the more serious offences against the Community's financial interests (measured primarily in terms of the amounts at stake), which are commonly transnational, are prosecuted in a uniform and credible manner.

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<sup>83</sup> Resolution of 31.3.1998 on criminal proceedings relating to the protection of the Union's financial interests, OJ C 138, 4.5.1998.

Community action<sup>84</sup> is under way in an attempt to improve matters, notably in response to the various reports published by Parliament in 1997 and 1998.<sup>85</sup>

On 1 January 1999 the Euro was introduced as the single currency of the European Union, at least in the eleven countries that belong to the Euro zone. The fight against Euro counterfeiting is a challenge that the Commission has spent several months preparing for.<sup>86</sup> Progress on this front is also reported on in this Chapter.

#### 4.1. Initiatives by the Member States for the protection of the Communities' financial interests

One of the chief initiatives taken by the Member States for the protection of the Communities' financial interests is, in the Commission's view, the ratification of the relevant legal instruments. Two Member States (Germany on 24.11.1998 and Finland on 18.12.1998) have ratified the Convention on the protection of financial interests and the first Protocol (on corruption).<sup>87</sup>

Another source of satisfaction for the Commission is the fact that the close relations established between national services, either adapted to the Community dimension of the fight against fraud or set up for the specific purpose, and the Commission are now virtually a day-to-day reality. They are manifested among other things in transnational investigations.<sup>88</sup>

In 1998 contacts between UCLAF and certain national departments also built up. In Italy, for instance, with the *Carabinieri*,<sup>89</sup> whose nation-wide presence in all segments of Italian society gives them a top-flight access to information about criminal conduct and in particular about trends in irregularities, fraud and mafia-type activities.

The establishment of a specific form of co-operation between UCLAF and the *Direzione Nazionale Antimafia* (DNA)<sup>90</sup> has been discussed between the two sides in order to secure more effective action against large-scale economic and financial crime and organised crime, which profit from fraud, corruption and money-laundering to the detriment of Community finance. The outcome might be practical arrangements establishing permanent contacts for co-operation and information exchanges.

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<sup>84</sup> Cf. also point 3.5, page 42, concerning the *Corpus Juris*, which calls in particular for the establishment of a European legal area to tackle the difficulties encountered in political circles in supplying modern, effective instruments of judicial cooperation.

<sup>85</sup> Resolutions of 1997 (cf. Annual Report 1997, chapter 5, point 5.6, page 54) and 1998 (Resolution of 13.3.1998 on judicial cooperation in criminal matters in the European Union, OJ C 104, 6.4.1998; Resolution of 31.3.1998).

<sup>86</sup> Cf. Annual Report 1997, chapter 3, point 3.4.1, page 41.

<sup>87</sup> Two other Member States have since followed (Austria on 21.5.1999 and Sweden on 10.6.1999). Finland has also ratified the second Protocol.

<sup>88</sup> Cf. point 2.1, from page 19.

<sup>89</sup> Police force most of whose officers are assigned to rural areas. Visit to Brussels by the general staff of the CCTNCA (*Commando Carabinieri Tutela Norme Comunitarie e Agroalimentari*), reporting to the Ministry of Agriculture authorised to inspect all Community aids in agriculture and the agri-food industry.

<sup>90</sup> Anti-mafia investigation and prosecution service with the function of coordinating and promoting the investigation of organised crime.

In any event, horizontal co-operation between several international services, often of different kinds (agriculture, customs, finance, police and justice) is developing in a positive fashion. This has been confirmed on a number of occasions in the context of transnational cases and corresponds to the recommendations in the programme of action to combat organised crime adopted by the Council in 1997<sup>91</sup> (recommendations Nos 1 and 2).

#### **4.2. Article 280 of the EC Treaty and the shared responsibility of the Community and the Member States for the protection of Europe's finances**

Article 280 of the EC Treaty, as amended by the Treaty of Amsterdam, is the new legal framework for the protection of financial interests against fraud and other illegal activity detrimental to the Communities' financial interests; it now involves the Community and the Member States in shared responsibility for achieving equivalent protection throughout the Community.

Article 280<sup>92</sup> confers a specific role and specific responsibility on the Commission in the protection of the Community's finances and the fight against fraud, requiring it to cooperate closely and regularly with all the relevant national authorities – administrative, judicial and police – in their action to counter fraud to the detriment of the Communities' financial interests. It makes abundantly clear that this is a shared responsibility of the Member States and the Community, the measures taken being required to offer effective protection in all Member States.

The new Article 280 also constitutes a new specific, broad legal base for taking the measures needed to prevent and counter fraud to the detriment of the Communities' financial interests and all other illegal activities by the codecision procedure and provides a new potential on top of the existing powers; there is thus a major new dynamic that augurs well for the future development of the legal framework for protection of Community interests.<sup>93</sup>

#### **4.3. Judicial co-operation**

When asked, the Commission (UCLAF) provides technical and operational assistance to national authorities responsible for transnational investigations into fraudsters. Meetings are organised between national prosecution services to facilitate information exchanges. An example is the 1998 case of a major investigation into contraband textile products<sup>94</sup> (T-shirts) involving several individuals and firms in Switzerland, Italy and Belgium. The courts in charge of the case realised that there was a need for co-ordinated management of the investigations, and in particular of the international letters rogatory to be executed in Spain and Switzerland, and asked for support from UCLAF (criminal liaison and expertise unit).

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<sup>91</sup> OJ C 251, 15.8.1997. The idea was taken up in the second report (10.9.1999) of the Committee of Independent Experts (cf. introduction to this report, page 6) on the reform of the Commission.

<sup>92</sup> The Treaty entered into force on 1.5.1999.

<sup>93</sup> The first practical application of the new legal base was the adoption of Council Regulations Nos 1073/99 and 1074/99 governing investigations by the European Anti-fraud Office established by Commission Decision on 28 April 1999 (OJ L 136, 31.5.1999).

<sup>94</sup> ECU 9 million at least (traditional own resources and customs duties) are at stake.

There is a strong majority among the judiciary who observe and denounce the difficulties and the slow procedures that impede judicial assistance in cases of this type. UCLAF's role is to offer its support in endeavouring to overcome these difficulties.

UCLAF provided assistance in other major transnational cases. Examples include the investigations into fraud relating to refunds on exports of durum wheat meal to Algeria, trafficking in milk powder, olive oil and butter and a case involving illegal transfers of British beef to other Community countries. UCLAF's specialised investigators were able to share their knowledge of these cases with the relevant national authorities and arrange direct liaison between the various places where investigations were conducted in order to optimise the results.

In the VAT fraud cases also, UCLAF helped with a case involving purchases of Austrian sugar by an Italian firm via letterbox companies. The VAT debt was fraudulently concentrated on the letterbox companies, which were perfectly insolvent and due to be wound up, so that the company receiving the goods was able to acquire them in effect at reduced prices.<sup>95</sup> UCLAF was asked to assist with the preparation and execution of international letters rogatory in Austria. In the event, only 17 days passed between the request for judicial assistance and the searches by the authorities.

Turning to the fight against organised crime in Europe, UCLAF, acting on the basis of an exchange of letters between the relevant Members of the Commission and the Swiss Federal Justice Adviser, had meetings throughout 1998 with representatives of the Swiss Federal Government to jointly analyse the problems arising in the application of the Additional Protocol to the Free Trade Agreement governing administrative assistance in customs matters<sup>96</sup> and in judicial co-operation. Cases where current forms of co-operation are felt to be inadequate (customs and indirect taxation) were prominent on the agenda.

UCLAF considers that the improvement of co-operation instruments for combating irregularities affecting the Communities' financial interests is a top priority. This concerns not only trafficking in goods between Switzerland and the Community but also the activities of organised rings in Switzerland with effects, notably in terms of indirect taxation, in Community customs territory even though there is no transfrontier trade in goods.

A group of experts is working on these analyses and is expected to report its conclusions before the end of 1999.

#### **4.4. Protecting the Euro**

The threat of counterfeiting will really be felt once Euro notes and coins are in circulation, i.e. from 1 January 2002. A system designed to prevent and combat counterfeiting must therefore be set up before then, so that there is time to test it. The fact that the Euro will be an international reserve and trading currency makes this all the more important.

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<sup>95</sup> The taxable amount of transactions is around ECU 50 million.

<sup>96</sup> The Agreements entered into force on 1 July 1997 (Council Decision 97/403/CE of 2.6.1997, OJ L 169, 27.6.1997).

The Commission continued with the work begun in 1997 and 1996:<sup>97</sup> further discussions were held by the group of experts, specialists in the field of counterfeiting from the Member States. The group, attached to the Advisory Committee for the Co-ordination of Fraud Prevention (COCOLAF), held two rounds of important meetings in 1998.

The Commission (UCLAF) produced its first progress report in April 1998,<sup>98</sup> and presented it to the British Council Presidency, which asked for an official document on training and information-sharing issues relating to protection of the Euro. In the meantime the Council (Ecofin) of 19 May 1998 noted the work accomplished so far. It also called on the Commission to continue with its initiatives to facilitate the exchange of information and arrange for close and regular co-operation, insofar as compatible with subsidiarity and the rules on the allocation of powers laid down in the Treaty on European Union.

#### 4.4.1. *Commission communication of 22 July 1998*

In this communication on protection of the Euro,<sup>99</sup> addressed to the Council, Parliament and the European Central Bank, the Commission identified four main policy areas:

- training,
- exchange of information,
- co-operation at European level, and
- approximation of laws.

A policy of awareness-raising measures and training for all those professionally involved in detecting forgeries (e.g. police and employees of financial institutions) is of crucial importance. A pilot project is being considered which could start in 1999 and serve as the basis for a multi-annual vocational-training programme at Community level.

Similarly, the gathering, sharing and analysis of information on criminal operations and counterfeit notes and coins is a fundamental part of protecting the Euro. Police services already possess strategic and operational information on counterfeiting practices, rings and networks. This information must be pooled, cross-referenced and analysed. There will have to be a set of Community rules creating the legal framework needed for the compiling and exchange of information between authorities responsible for protecting the single currency against counterfeiting. What is needed is an information system and integrated database to provide on-line access to the information. The system must be accessible in real time, feeding and updating must be continual and obligatory, and the information must meet certain standards to ensure that it is comparable. Much of the information carried by the system will be confidential and will relate to people. Hence, it must comply with rules designed to protect data of that type, as must existing information-exchange systems for

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<sup>97</sup> See 1997 Annual Report, Chapter 3, point 3.4.1, page 38.

<sup>98</sup> SEC(1998) 624.

<sup>99</sup> COM(1998) 474 final.

customs<sup>100</sup> which also contain sensitive data covered by the rules on the protection of such data.

The level of protection for the Euro must be equivalent throughout the Community. This means that the national authorities must cooperate and co-ordinate their activities effectively, to ensure that they meet the objective, laid down by the Treaty, of protecting the Community's overall financial interests.<sup>101</sup>

Lastly, in its communication, the Commission puts forward the view that, in addition to a regulatory framework for the gathering and exchange of information, and co-operation, the Euro must also be protected by the criminal law.

#### 4.4.2. *Exchange of information and co-operation*

The Euro is the common, single currency of the Member States involved in monetary union. Its protection requires a common approach. Economic and monetary union is part of the first pillar. It is therefore essentially a Community matter: Community regulations are required to establish the rights and duties of all participants, most of which concern information-sharing and co-operation.

The aim of this approach is to develop, within a Community legal framework, close and regular co-operation between national police authorities, central banks, issuing institutions, Community authorities (Commission, ECB and Europol) and Interpol. This is made very clear in the Commission communication, and the roles and functions which may be adopted by Community and Union authorities are clearly identified.

For instance, the ECB will be responsible for technical security *vis-à-vis* notes and will manage the technical database and establish a counterfeiting analysis centre (CAC).<sup>102</sup> Europol can play a part by placing its information system at the Member States' disposal to facilitate co-operation between police services at operational level.

The Council (Ecofin) of 23 November 1998 called on the ECB and the Commission to consider the need for Community legislation on co-operation and obligatory information sharing between national banks and authorities in the Member States. This led, in 1998, to the publication of a new Commission working paper<sup>103</sup> and will lead, in 1999, to a third round of COCOLAF meetings. The aim is to prepare legislative proposals to establish a system and a network of rights and duties for Member States and institutions under the jurisdiction of the European Court of Justice.

#### 4.5. **Customs co-operation**

The new Customs Information System was introduced in 1998.<sup>104</sup> The System enables national administrations in the Member States to exchange information on customs fraud cases quickly and securely. Information concerning operational

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<sup>100</sup> See point 4.5 below.

<sup>101</sup> Former Article 209a of the EC Treaty, now Article 280.

<sup>102</sup> See also the ECB's recommendation on counterfeiting, adopted by the ECB on 7 July 1998, OJ C 11, 15.1.1999.

<sup>103</sup> SEC(1998) 2248 of 23 December 1998.

<sup>104</sup> See 1997 Annual Report, Chapter 3, point 3.2, page 35.



departments involved in fighting fraud were added to make it more useful for investigators in the Member States.

The Anti-Fraud Information System (AFIS) was introduced to take account of the fact that fighting fraud requires action by a number of different services at national level. AFIS gives all national administrations involved in the matter access to the information (and enables them to exchange information), and operates on the same principles as SCENT/SID.<sup>105</sup> The same is true of the "early-warning system" which enables users to exchange messages and monitor transit movements in the Community.<sup>106</sup> Another application to help fight fraud is currently being developed: Marinfo (Maritime Information) is designed to help customs authorities keep track of goods being transported by sea.

#### **4.6. Training on protection of the Community's financial interests**

In 1998, in accordance with the training policy it has been pursuing for several years now, the Commission concentrated on training for national services involved in protecting the European Union's financial interests. The attached table demonstrates how specific and targeted the training is. It also clearly illustrates the importance UCLAF attaches to giving national judicial authorities training on protection of the Community's financial interests. Success in combating fraud on the ground will require these authorities to be properly motivated and to cooperate fully.

There were 28 training courses in 1998 (see attached table), organised on the Commission's initiative. Most of these involved several Member States and were open to applicant countries,<sup>107</sup> to promote co-operation with them. Almost 2 500 officers were given the chance to acquire a better knowledge of various fields, primarily research, pursuit and punishment of Community fraud.

The Commission is also continuing to provide the Member States with financial assistance, on request, for training concerned with the protection of the Union's financial interests. It also endeavours, where possible, to provide participants who have useful experience to share.

Noteworthy in this context is the European Seminar on the prevention and suppression of Community fraud, organised by UCLAF and the Italian Guardia di Finanza from 11 to 17 May 1998 at the training centre for non-commissioned officers, Aquila, Italy.

The seminar, which was an unprecedented initiative for training young investigators in Europe, was prepared on the basis of a programme devised by UCLAF with the Guardia di Finanza and representatives of investigating departments' training centres from most of the Member States. The objective was to train about a thousand Guardia trainees and a hundred or so young officers and investigators from other Member States. The workshops among other things helped to make this seminar a

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<sup>105</sup> System for Customs Enforcement network: an e-mail exchange system, linked to SID and providing customs authorities with access to external databases.

<sup>106</sup> See point 3.1, page 35.

<sup>107</sup> See point 5.1, page 50.

useful awareness-raising exercise in the build-up to the possible establishment of a European training scheme for investigators.<sup>108</sup>

## **5. CO-OPERATION AND PARTNERSHIP WITH NON-MEMBER COUNTRIES**

As the prospect of membership draws closer for applicant countries, it is becoming increasingly important to establish reliable control systems and services with staff well trained in the protection of the Union's economic and financial interests. In Poland's case, for example, this objective is being achieved. Poland is in the process of creating an administrative structure which meets EU standards for the protection of its financial interests. Poland is well aware of the need for close relations with UCLAF, which, on behalf of the Commission, has itself taken steps in this direction, showing the way for other applicant countries and their authorities.

### **5.1. Pre-accession strategy**

The Commission's 1998/1999 work programme of anti-fraud measures<sup>109</sup> concentrates on incorporating the fight against fraud into the pre-accession strategy. The aim is to take practical measures that fit into the framework provided by the Accession Partnerships.<sup>110</sup> These measures must provide an equivalent level of protection for the Community's financial interests by the time the country in question joins; this is one of the essential conditions of enlargement.

In this context, it is important to prepare the applicant countries for the system of Community finances and ensure that the level of protection in the enlarged Union is at least as high as it is now.

Implementation of the relevant Community legislation is not sufficient in itself; to comply with the spirit of Article 280 of the EC Treaty, as amended by Treaty of Amsterdam, the applicant countries must take all necessary measures to combat fraud and cooperate closely with the Member States and the Commission, particularly on trans-national operations. For the Commission, it is important that applicant countries realise now the particular issues involved in fighting fraud and the implications in terms of administrative organisation.

The requirement that the level of protection be equivalent throughout the Community means that, in this field, transitional arrangements cannot be allowed after the Accession Treaties have entered into force.

In 1998, UCLAF did not have the resources required to put this approach into practice in all eleven applicant countries at the same time. It chose instead to concentrate its efforts on Poland, partly because it is the largest of the applicants and receives the biggest share of Phare funds. Another reason was the importance of co-operation with Poland in view of the fact that part of its border will form part of the Community's external border when it joins.

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<sup>108</sup> The Tampere (Finland) European Union in October 1999 envisaged the establishment of a European police academy to consist initially of a network of national training facilities.

<sup>109</sup> COM (98) 278 final of 6 May 1998.

<sup>110</sup> Council Regulation (EC) No 622/98 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships, OJ L 85, 20.3.1998.

Acting in close co-operation with Poland's diplomatic mission to the European Union in Brussels, UCLAF convinced the Polish authorities at the highest level (Government and Parliament) of the usefulness of a multidisciplinary central structure with which it, UCLAF, could cooperate directly when rapid action was required on the ground.

During the Director of UCLAF's visit to Warsaw, the Prime Minister confirmed, in broad terms, what measures were planned, i.e.:

- a specialist multidisciplinary unit to be established to combat fraud and organised crime,
- unit to be attached to the General Customs Inspectorate (GCI)<sup>111</sup> with the power to investigate expenditure and revenue,
- co-operation agreements to be concluded between the GCI and the various departments responsible for control and management of pre-accession funds, under the guidance of the Prime Minister's department, with the aim of enabling the GCI to co-ordinate fraud inquiries,
- funding plan to be drawn up as part of the 1999 Phare programme, to provide the resources required by the GCI to accomplish its new task.<sup>112</sup>

## **5.2. Mutual assistance agreements between the Community and non-member countries**

On 31 December 1998, the Community concluded agreements providing for mutual assistance on customs matters with 33 non-member countries, including virtually all of its European neighbours and its major trading partners. (The agreements with 29 countries have now entered into force.)<sup>113</sup> Some of the agreements, covering a range of topics, have a protocol on mutual assistance on customs matters while others deal exclusively with that theme.

These agreements and protocols give the departments responsible for customs investigations in the signatory countries a legal basis for requesting and providing administrative assistance in relation to inquiries aimed at ensuring either party's customs regulations are properly applied.

On 1 February 1998, Europe agreements with each of the Baltic States entered into force. Each of the agreements contains a protocol on mutual assistance on customs

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<sup>111</sup> The Prime Minister chose to attach the new multidisciplinary structure for protecting the Community's financial interests to the General Customs Inspectorate. The GCI was itself set up recently (1997). It is under the direct responsibility of the Finance Minister and its task is to investigate any breach of the laws on the trade in goods with other countries and fight corruption. Its powers to act go beyond those of the Polish customs authorities. For instance, it has direct access to premises and documents, it can take enforcement measures and question witnesses etc.

<sup>112</sup> The funding plan was drawn up by the Polish authorities on the basis of principles established jointly by UCLAF and the GCI in close co-operation. A EUR 3.5 million programme was presented and accepted by the Phare Committee on 7 May 1999. The EUR 3.5 million accounts for around 1.4% of the funding for Poland's Phare Programme in the 1999 budget. The first stage of the plan involves the secondment of four officials, specialising in different areas, to be appointed by the European Anti-Fraud Office (OLAF). One of the officials, the co-ordinator, would be sufficiently high-ranking to liaise with all of the relevant Polish authorities on an ongoing basis.

<sup>113</sup> There are 27 agreements covering 29 countries. 26 agreements were signed with 26 different non-member countries, and the EEA agreement is between the European Union and three other countries: Liechtenstein, Norway and Iceland.

matters.<sup>114</sup> An agreement with Canada on co-operation and mutual administrative assistance on customs matters entered into force on 1 January 1998.

An agreement between the Community and Hong Kong (China) on the same subject was initialled on 3 November 1998. The agreement entered into force on 1 June 1999.

A number of agreements with protocols on mutual assistance on customs matters were signed in 1998, with a number of non-member countries, i.e. Azerbaijan, Belarus, Kyrgyzstan, Morocco, Uzbekistan, Tunisia and Turkmenistan. The agreement with Azerbaijan entered into force on 1 March 1999, and those with Kyrgyzstan and Uzbekistan on 1 July 1999.

Negotiations on general agreements containing protocols on mutual assistance on customs matters or agreements dealing exclusively with that are being held or are planned to take place in 1999 with around twenty other countries, including Albania, South Africa, Egypt, Lebanon, Cyprus, China, Chile and a number of the EU's Asian partners from ASEM.<sup>115</sup>

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<sup>114</sup> The Baltic states are Estonia, Latvia and Lithuania; the Europe agreements replace the agreements on trade liberalisation and the accompanying measures which were concluded with each of the three countries and which entered into force in February 1995. They also contained protocols on mutual assistance on customs matters.

<sup>115</sup> ASEM: Asia-Europe meeting, between the EU and Asia. The Asian partners are: Brunei-Darussalam, China, Indonesia, Japan, Malaysia, Korea, Philippines, Singapore, Thailand and Vietnam.

### Training table

Location	Authorities	Topics
<b>Austria</b>	Finance Ministry - Austrian customs auditors. Participants from Belgium, Denmark, Spain, Finland, Greece, Italy, the Netherlands, Sweden and the United Kingdom <b>Gosau</b>	Detecting irregularities through audits of commercial documents and co-operation
	Association of Austrian judges, prosecutors and investigators for customs and the Structural Funds. Participants from the Czech Republic, Germany, Hungary, Poland and Slovenia <b>Baden</b>	Protecting the EC's financial interests through criminal law
<b>Belgium (Brussels)</b>	Public prosecutors from the five new German <i>Länder</i>	Organised economic crime and prosecution.
	Zentrale Betrugsbekämpfungstelle- Ausfuhrerstaltung HZA Hamburg-Jonas	Prevention and punishment of fraud
	Regional heads of Danish customs	Community fraud and co-operation
	Three short seminars: Algemene Inspectiedienst, AID (Dutch service)	Prevention and detection of irregularities in agricultural spending
<b>Germany</b>	Bundeskriminalamt, (BKA) - Police specialising in economic crime <b>Wiesbaden</b>	Fraud affecting the Community and co-operation
	Zollkriminalamt (ZKA) and all specialised inspection agencies from other Member States <b>Schliersee</b>	Fraud affecting the Community and co-operation
	Zollkriminalamt (ZKA) and services from other Member States (Belgium, France, the United Kingdom, the Netherlands) <b>Wiehl</b>	Inspection of market organisations for fraud
	Bundesministerium der Finanzen for auditors of agricultural spending from a number of Member States and Poland, the Czech Republic, Slovenia and Hungary <b>Cottbus</b>	Auditing techniques for the detection of irregularities and co-operation
	Police and specialist public prosecutors <b>Stuttgart</b>	Combating organised economic crime
	<b>Spain</b>	Guardia Civil, with participants from France, Italy, Portugal and the United Kingdom <b>Alicante</b>
National police with participants from France, Italy and Portugal <b>Ségovie</b>		Co-operation in the fight against fraud affecting the Community

<b>Location</b>	<b>Authorities</b>	<b>Topics</b>
<b>France</b>	French judicial police with participants from specialist police forces in Germany and Spain <b>Montpellier</b>	Counterfeiting and protection of the Euro
	Ministry of employment and vocational training, officials in charge of controls <b>Paris</b>	Combating irregularities and fraud affecting the ESF
<b>United Kingdom</b>	Crown Prosecution Service and customs, with participants from Germany, Spain, Italy, Hungary, Poland and Slovenia <b>Croydon</b>	Combating fraud in the European Community, particularly fraud affecting the Structural Funds
<b>Greece</b>	Training Centre of Finance Ministry Officials, control staff <b>Athens</b>	Fraud risks for the Guarantee Section of the EAGGF
<b>Ireland</b>	Department of Agriculture, Irish agriculture inspectors, with participants from Germany, France, the United Kingdom, the Czech Republic and Hungary <b>Kinsale</b>	Combating irregularities and fraud involving milk quotas
<b>Italy</b>	Guardia di Finanza and Italian public prosecutor <b>Rome</b>	Co-operation between the Guardia di Finanza and the public prosecutor's office in prosecuting fraud
	Italian National Police <b>Rome</b>	Advanced training in prosecution of economic crime
	University of Catania, criminal-law experts from a number of Member States <b>Catania</b>	Development of criminal law to protect the EC's financial interests
	Guardia di Finanza and delegations, with instructors, from all Member States <b>L'Aquila</b>	European seminar on protection and co-operation in combating Community fraud
<b>Netherlands</b>	Algemene Inspectiedienst, AID. Inspectors from the Netherlands and all other Member States <b>Maastricht</b>	Auditing techniques for detecting irregularities, and co-operation
<b>Poland</b>	Polish authorities (police, customs and judiciary) with participants from Spain, France and Portugal <b>Mragowo</b>	Combating economic fraud
<b>Portugal</b>	Joint measure organised by Finance Ministries and customs investigators, with participants from Spain, Greece, France, Italy and Portugal <b>Oporto</b>	Co-operation and the fight against fraud in the textiles industry
	Judicial police <b>Lisbon</b>	Role of the judicial police in combating economic fraud

Location	Authorities	Topics
<b>Sweden</b>	Swedish public prosecutors and police, with participants from Denmark <b>Sundbyholm</b>	Co-operation against fraud and corruption, with particular reference to the Structural Funds
	Investigators from the Swedish customs administration, with participants from Germany, Denmark, the Netherlands, Finland, Norway and the United States <b>Boras</b>	General co-operation against fraud in the textiles industry

Table 1

**Fraud and other irregularities communicated by Member States in  
conformity with Reg. (EC) 1552/89**

**TRADITIONAL OWN RESOURCES**

1998

<i>MEMBER STATE</i>	<i>Number of cases</i>	<i>Amounts involved ( in ECU )</i>
Belgique / Belgie	345	18.153.679
Danemark	127	13.551.050
Deutschland	297	29.033.438
Ellas	2	312.760
Espana	83	4.133.323
France	211	18.636.719
Ireland	24	839.360
Italia	173	24.222.050
Luxembourg	0	0
Nederland	210	9.035.849
Oesterreich	146	6.545.544
Portugal	18	2.940.496
Suomi	42	1.682.245
Sverige	95	12.069.021
United Kingdom	499	108.053.530
<b>TOTAL</b>	<b>2.272</b>	<b>249.209.064</b>

\* established and estimated amounts



Table 2

**Fraud and other irregularities communicated by Member States in  
conformity with Reg. (EC) 595/91**

**EAGGF-GUARANTEE**

**1998**

<b>MEMBER STATE</b>	<b>Number of cases</b>	<b>Amounts involved ( in ECU )</b>
Belgique / Belgie	54	2.413.616
Danemark	42	837.350
Deutschland	501	39.623.402
Ellas	163	8.784.048
Espana	294	10.388.940
France	141	37.407.327
Ireland	80	3.466.418
Italia	443	150.391.572
Luxembourg	0	0
Nederland	78	9.220.515
Oesterreich	135	2.015.256
Portugal	55	3.144.002
Suomi	11	113.081
Sverige	87	794.358
United Kingdom	328	16.241.275
<b>TOTAL</b>	<b>2.412</b>	<b>284.841.160</b>

Table 3

**Fraud and other irregularities communicated by Member States in  
conformity with Reg. (EC) 1681/94 and 1831/94**

**STRUCTURAL ACTIONS**

**BREAKDOWN BY FUND**

**1998**

Amounts in ECU

Member State	ERDF		EAGGF-Guidance		EAGGF-Fisheries		ESF		COHESION	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Belgique Belgie	1	148.736	0	0	0	0	1	17.353		
Danemark	2	226.259	1	19.634	0	0	11	317.075		
Deutschland	17	1.392.437	36	3.236.494	1	7.921	12	912.481		
Ellas	1	111.801	5	2.661.609	0	0	11	307.417	0	0
Espana	18	3.824.078	20	381.798	2	424.829	119	4.056.460	0	0
France	3	1.794.340	0	0	0	0	0	0		
Ireland	19	95.632	5	96.638	0	0	1	60.947	0	0
Italia	1	159.661	14	137.363	0	0	8	449.796		
Luxembourg	0	0	0	0	0	0	0	0		
Nederland	3	64.505	0	0	0	0	0	0		
Oesterreich	0	0	0	0	0	0	1	0		
Portugal	10	1.884.019	34	1.509.033	0	0	8	3.055.153	0	0
Suomi	1	30.819	0	0	1	37.541	2	1.766		
Sverige	1	57.968	2	11.748	0	0	5	124.857		
United Kingdom	15	3.235.629	0	0	0	0	15	11.984.220		
<b>Total</b>	<b>92</b>	<b>13.025.884</b>	<b>117</b>	<b>8.054.317</b>	<b>4</b>	<b>470.291</b>	<b>194</b>	<b>21.287.525</b>	<b>0</b>	<b>0</b>

Table 4

**Fraud and other irregularities communicated by Member States in  
conformity with Reg. (EC) 1681/94 and 1831/94**

**STRUCTURAL ACTIONS**

1998

<i>MEMBER STATE</i>	<i>Number of cases</i>	<i>Amounts involved ( in ECU )</i>
Belgique Belgie	2	166.089
Danemark	14	562.968
Deutschland	66	5.549.334
Ellas	17	3.080.826
Espana	159	8.687.166
France	3	1.794.340
Ireland	25	253.218
Italia	23	746.820
Luxembourg	0	0
Nederland	3	64.505
Oesterreich	1	0
Portugal	52	6.448.205
Suomi	4	70.126
Sverige	8	194.573
United Kingdom	30	15.219.850
<b>TOTAL</b>	<b>407</b>	<b>42.838.020</b>

### TRADITIONAL OWN RESOURCES

#### Fraud and other irregularities communicated by Member States

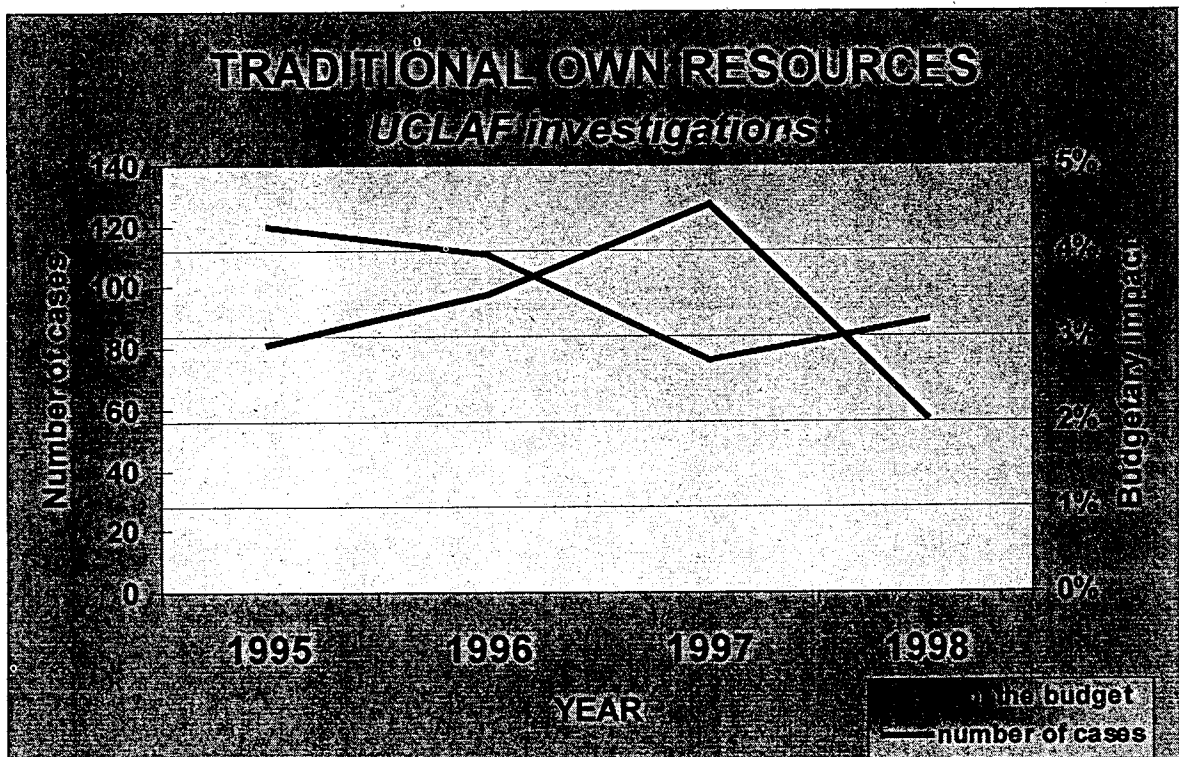
year	number of cases	amounts (x1000)	part of the budget	budget concerned (x1000)
1998	2.272	249.209	1,77%	14.110.700
1997	2.456	294.018	2,07%	14.172.300
1996	2.428	284.430	2,09%	13.583.700
1995	2.296	268.967	1,86%	14.453.200

N.B.: The figures for 1995 -1997 have been reviewed based on latest communications by Member States with the electronic system



**TRADITIONAL OWN RESOURCES  
UCLAF INVESTIGATIONS**

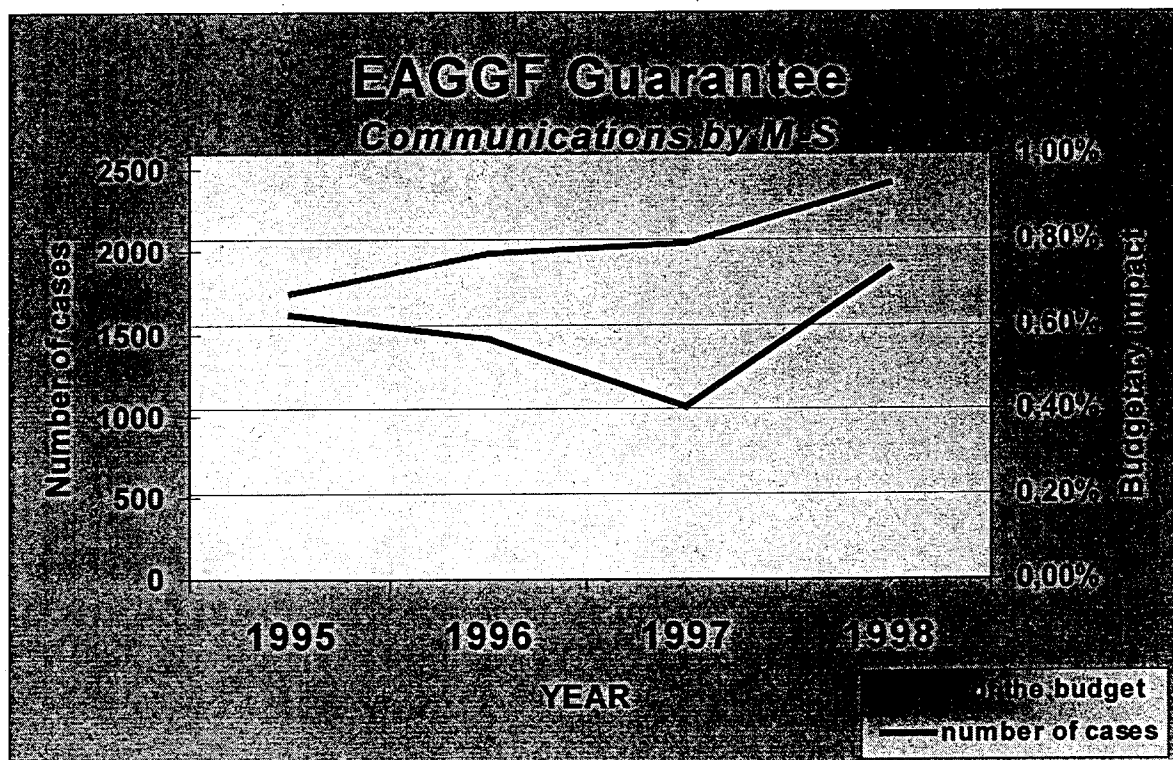
<i>year</i>	<i>number of cases</i>	<i>amounts (x1000)</i>	<i>part of the budget</i>	<i>budget concerned (x1000)</i>
1998	89	288.900	2,05%	14.110.700
1997	76	643.000	4,54%	14.172.300
1996	111	475.000	3,50%	13.583.700
1995	120	421.000	2,91%	14.453.200



EAGGF GUARANTEE

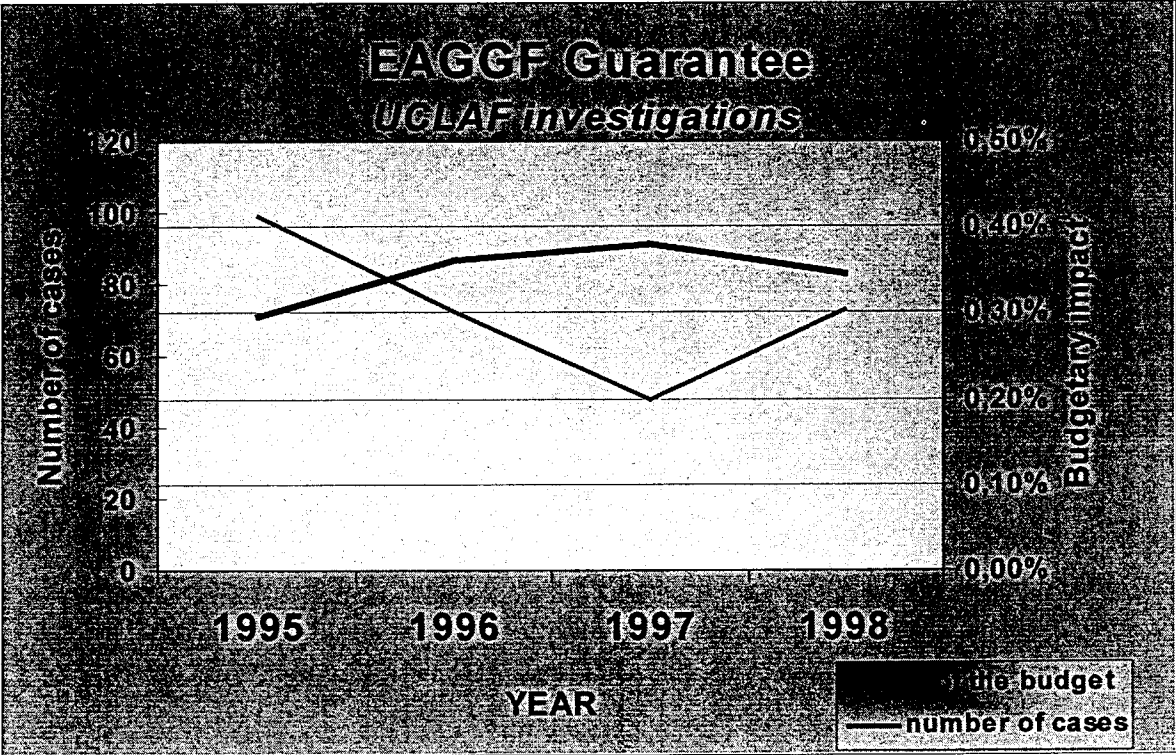
Fraud and other irregularities communicated by Member States

year	number of cases	amounts (x1000)	part of the budget	budget concerned (x1000)
1998	2.412	284.841	0,73%	39.132.500
1997	2.058	164.884	0,41%	40.423.000
1996	1.992	223.000	0,57%	39.324.200
1995	1.754	214.000	0,62%	34.490.400



**EAGGF GUARANTEE  
UCLAF INVESTIGATIONS**

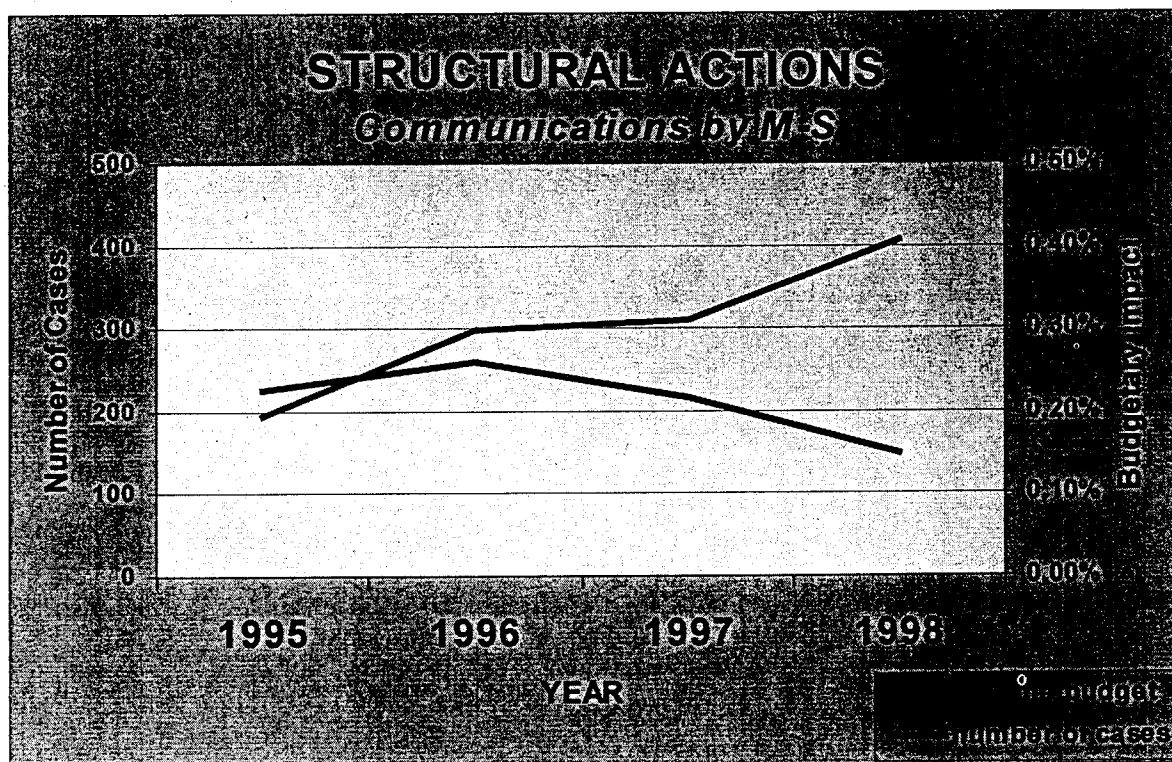
<i>year</i>	<i>number of cases</i>	<i>amounts (x1000)</i>	<i>part of the budget</i>	<i>budget concerned (x1000)</i>
1998	73	135.000	0,34%	39.132.500
1997	48	153.000	0,38%	40.423.000
1996	72	142.000	0,36%	39.324.200
1995	99	102.000	0,30%	34.490.400



### STRUCTURAL ACTIONS

Fraud and other irregularities communicated by Member States

year	number of cases	amounts (x1000)	part of the budget	budget concerned (x1000)
1998	407	42.838	0,15%	28.765.700
1997	309	57.070	0,22%	26.285.100
1996	297	63.877	0,26%	24.624.100
1995	194	43.573	0,23%	19.223.300

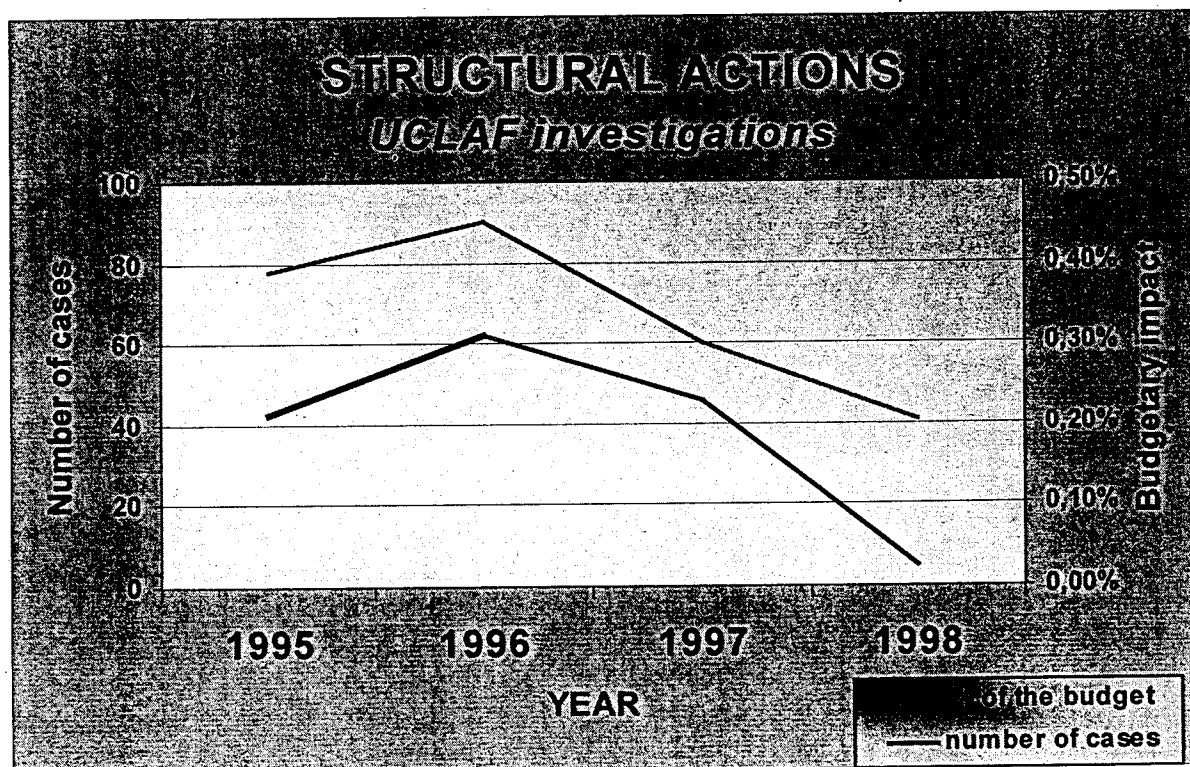




**STRUCTURAL ACTIONS**  
**UCLAF INVESTIGATIONS**

<b>year</b>	<b>number of cases</b>	<b>amounts (x1000)</b>	<b>part of the budget</b>	<b>budget concerned (x1000)</b>
1998	41	7.096	0,02%	28.765.700
1997	60	60.365	0,23%	26.285.100
1996	90	76.225	0,31%	24.624.100
1995	78	40.708	0,21%	19.223.300

N.B. The amounts for 1995-1997 have been adapted resulting from the developments in the investigations

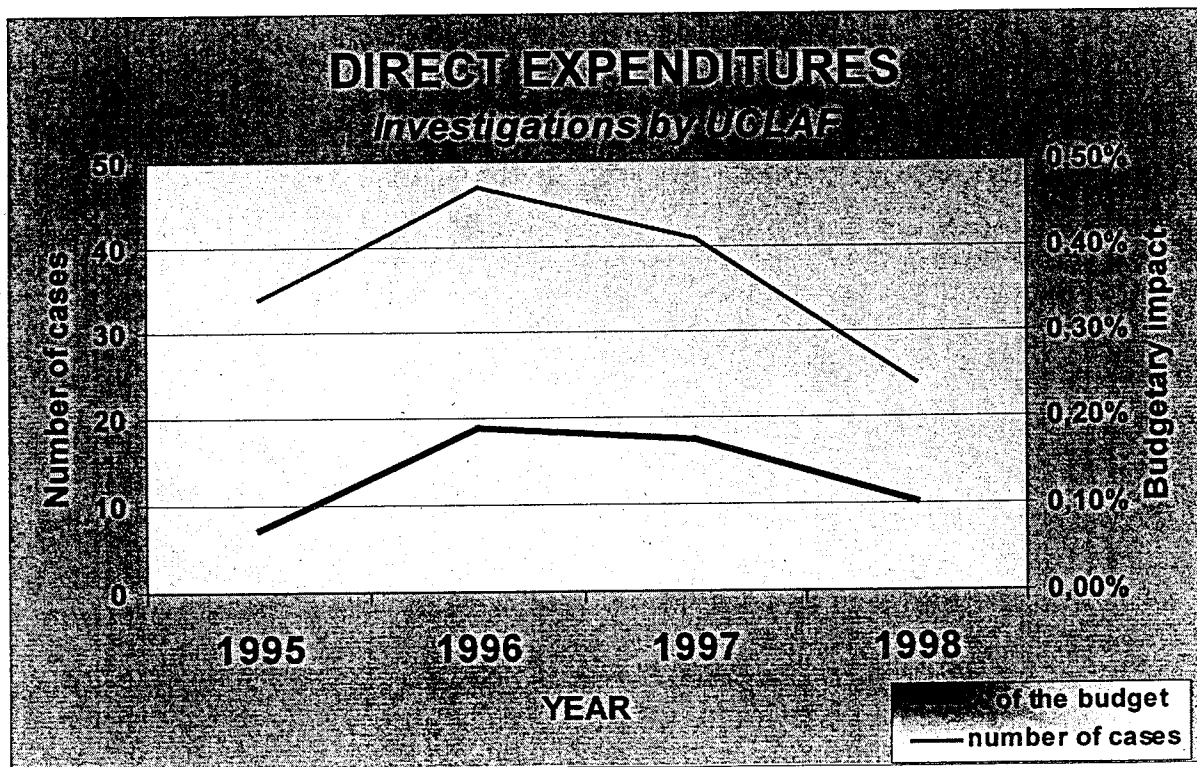


### DIRECT EXPENDITURE INVESTIGATIONS by UCLAF

Year	number of cases	amounts (x1000)	part of the budget	budget concerned (x1000)*
1998	24	11.075	0,10%	10.707.800
1997	41	18.531	0,17%	10.681.600
1996	47	20.114	0,19%	10.645.400
1995	34	7.821	0,07%	10.824.600

\* Including EDF and ECSC expenditures but without administrative expenditures.

N.B. The amounts for 1995-1997 have been adapted resulting from the developments in the investigations



## GLOSSARY

<b>Agenda 2000:</b>	Commission Communication on enlargement – horizon 2000
<b>ASEAN:</b>	Association of South-East Asian Nations
<b>BAT:</b>	Technical assistance board
<b>CAP:</b>	Common Agricultural Policy
<b>CIP:</b>	Community Initiative Programme
<b>CIS:</b>	Customs Information System
<b>COCOLAF:</b>	French acronym for Advisory Committee for the Co-ordination of Fraud Prevention
<b>CPCA:</b>	French acronym for Standing Committee for Administrative Co-operation (indirect taxation). The Committee, chaired by the Commission's Directorate-General for Taxation and Customs Union, deals with questions relating to the implementation of the transitional intra-Community VAT system.
<b>EAGGF:</b>	European Agriculture Guidance and Guarantee Fund
<b>EC:</b>	European Community (name used since entry into force of the Treaty on European union)
<b>ECHO:</b>	European Community Humanitarian Office
<b>EDF:</b>	European Development Fund
<b>EEA:</b>	European Economic Area (agreement involving the fifteen Member States of the European Union and the EFTA states, except Switzerland)
<b>EFTA:</b>	European Free Trade Association (members: Iceland, Liechtenstein, Norway and Switzerland)
<b>EMU:</b>	Economic and Monetary Union
<b>ERDF:</b>	European Regional Development Fund
<b>ESF:</b>	European Social Fund
<b>EWS:</b>	Early Warning System
<b>GSP:</b>	Generalised System of Preferences
<b>IRENE:</b>	French acronym for database managed by UCLAF - Irregularities, Inquiries, Use
<b>NCTS:</b>	New Computerised Transit System
<b>OECD:</b>	Organisation for Economic Co-operation and Development

<b>OJ:</b>	Official Journal of the European Communities (OJ L: L series; OJ C: C series)
<b>OLAF:</b>	European Anti-Fraud Office
<b>CCEE:</b>	Countries of central and eastern Europe
<b>PHARE:</b>	Programme of economic-reconstruction aid for central and east European countries
<b>SCAF:</b>	French acronym for Anti-fraud Sub-committee of the CPCA, dealing with indirect taxation.
<b>SCENT:</b>	System for a Customs Enforcement Network
<b>SEM 2000:</b>	Commission Programme for improving management of Community appropriations in the run-up to 2000 (Sound and Efficient Management)
<b>TIR:</b>	<i>Transport International Routier</i> – International carriage of goods by road
<b>TUE:</b>	Treaty on European Union
<b>UCLAF:</b>	Unit for the Co-ordination of Fraud Prevention (Directorate within the Commission's Secretariat-General, made into a task-force by Commission decision on 1 May 1998)
<b>VAT:</b>	Value-added tax
<b>WTO:</b>	World Trade Organisation