



REPORT OF THE EUROPEAN ANTI-FRAUD OFFICE

Fourth Activity Report for the year ending June 2003

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FOREWORD BY THE DIRECTOR OF OLAF, FRANZ-HERMAN BRUENER

This is my fourth annual Report on the operational activities of the European Anti-Fraud Office (OLAF). It covers the twelve months to the end of June 2003.

OLAF's full management structure has been in place for most of the reporting period following the arrival of the Director of Investigations and Operations in September 2002. Almost all vacant posts have been filled. I look forward to the management audit early in 2004. This will be an opportunity to identify and implement improvements, after discussion with OLAF's stakeholders.

The European Institutions have invested heavily in the creation and development of OLAF. The analysis of operational activity shows that this investment is now producing real results. The backlog of old and very old cases has largely been eliminated. This allows investigators to prioritise and to concentrate resources on particular cases in a flexible manner as and when developments in investigations so justify.

During the year, the emphasis of OLAF's investigation policy has moved increasingly towards confronting fraud and corruption in those areas of expenditure which are directly managed by the Commission. This development will continue. Resources will be reallocated accordingly. Often, such cases involve investigations both within and outside the Institutions. Experience shows that it is essential to manage such investigations together. This also helps to promote a common culture of investigation across the Office despite the wide differences in the professional background and culture of OLAF's investigative and operational staff.

The Report describes a high profile, successful prosecution which resulted from an enquiry conducted by OLAF in close liaison with another international body and a number of national authorities. This and other prosecutions will have wider deterrent effect. The conduct of prosecutions for fraud against the financial interests of the EC remains the responsibility of national authorities. OLAF has established excellent working relationships with many national prosecution authorities. Nevertheless, there are differences in the apparent level of commitment shown by some national authorities to the task of protecting the Community's financial interests in the spirit of Article 280 of the Treaty. Such problems will only be resolved by the creation of a European Public Prosecutor. I welcome the progress made towards that objective by the Convention.

The main challenges for the coming period are sustaining the impetus which OLAF is developing in the handling of internal and direct expenditure cases, and enlargement. The strategy for addressing these issues is set out in detail in OLAF's Work Plan for the year 2004.

Enlargement has been a priority for some time. OLAF is already operational in Acceding and Candidate Countries, with growing co-operation between OLAF investigators and their national counterparts. The main elements of anti-fraud infrastructure are in place. Training and investment, for example in communications, are intensifying. The proportion of OLAF's existing resources allocated to the development process has doubled in 2003 and will increase again in 2004.

Nevertheless, the task ahead is considerable. There is a limit to the extent to which existing resources can be reallocated without damage to other important tasks. While the increase in OLAF's staffing for the year 2004 currently under discussion by the Budgetary Authority is welcome it falls short of what is needed to deter and to detect fraud across the whole range of the Budget. I hope however to make a start in 2004 with the posting of OLAF regional liaison officers to a number of locations in Acceding and Candidate Countries.

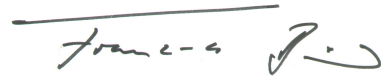
On 4 April 2003, the Commission adopted its "Article 15" Report. This assesses OLAF's first three years from an institutional and legal perspective rather than in terms of operational achievement. I am pleased to say that the Commission has recognised in this Report the need for OLAF to develop within a stable institutional framework and has endorsed the present institutional structure.

OLAF has already demonstrated that it has sufficient independence to combat fraud within the Institutions without fear or favour. There is no operational need for further independence. On the contrary, separation from the Commission would raise complex legal, management, operational and logistical questions. These, rather than the fight against fraud inside and outside the Institutions, would inevitably become the main preoccupation of OLAF's management for a considerable time. The morale and therefore the effectiveness of staff at all levels of the Office would quickly suffer from the climate of uncertainty (as was the case in the transition from UCLAF to OLAF). The fight against fraud also benefits from the present close proximity between OLAF and the Commission.

Such problems could be managed in the context of an orderly transition towards the European Public Prosecutor, where the objective was well understood and generally shared. But in the absence of a clear underlying objective, change to the institutional structure just when the present arrangements are starting to produce results would remove the stability which is vital to OLAF's further development. The investment which has been made in time, resources and the efforts of a dedicated and professional workforce would be wasted. The fight against fraud would be set back several years just at the moment when the EU is entering into its most challenging enlargement in history.

The "Article 15" Report makes some 17 recommendations. OLAF's Supervisory Committee has already given its Opinion. OLAF will now implement these recommendations, taking into account the views of the European Parliament and the Council once these have been expressed.

One final word. This Foreword is neither the time nor the place for a comment on the investigations relating to Eurostat, which became the subject of intense media and political interest at the end of the period covered by this report and subsequently. But I would emphasise, again, the importance, which OLAF attaches to the respect of the basic rights of those concerned by our investigations. This does not become any easier when accounts of a case, often grossly inaccurate, appear in the Press on a daily basis. It is nevertheless of fundamental importance to the Office to meet this challenge successfully.

A handwritten signature in dark ink, appearing to read 'Franz-H. Bruener', with a horizontal line above it.

Director-General OLAF

Franz-Hermann BRUENER

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EXECUTIVE SUMMARY

- During the current reporting period (1 July 2002-30 June 2003) OLAF opened 375 new investigations and closed altogether 805 investigations and other cases, many of which dated from OLAF's predecessor in the 1990s, UCLAF.
- At the end of the period 206 case records registered in OLAF's Case Management System (CMS) were in the assessment stage and 671 cases were under active investigation. The number of cases in the follow-up stage doubled.
- The total number of new case records registered during the current reporting period increased by approximately 4% (from 539 to 563). The average weight of each case increased with the elimination of old cases.
- At the end of the current reporting period, the Case Management System (CMS) stored a total of 3 440 case records, an increase of 18% over the previous year. Of those, 1 423 had been inherited from UCLAF.
- The total financial impact estimated by the investigation teams for all completed investigations which were passed to financial follow-up during the reporting period amounted to more than € 850 million.
- OLAF maintained the policy of "zero tolerance", investigating all allegations of corruption within the European Institutions. Priority was therefore given to internal investigations, to which additional resources were diverted during the reporting period. For the first time, this report details the distribution of investigations within the Commission.
- Half of the allegations relating to corruption within the European Institutions concerned irregularities in tenders and grant procedures and in contract award and execution, including conflict of interest.
- A special Task Force was set up as soon as the scale of the cases relating alleged mismanagement at Eurostat became evident, demonstrating OLAF's flexibility to assign experienced specialist staff to points of high priority. Other Task Forces addressed the backlog of the ex-UCLAF caseload and (jointly with DG AGRI) the backlog of recovery of agricultural irregularity claims from before 1999.
- OLAF also gave priority to casework relating to the enlargement process. Preparations for enlargement intensified in all operational and training aspects. Experience demonstrated that an effective OLAF presence and close co-operation with national authorities leads to a significant increase in successful investigations, for example in Romania.
- Improved working methods led to increased investigation activity in the area of direct expenditure, both within the EU and in external aid. These cases can

involve both internal investigations within the Institutions and external investigations in the recipient countries.

- Co-operation with other international organisations increased, including a successful operation in Kosovo which led to the recovery of € 2.7 million (US\$ 3.2 million) and to a high-profile conviction in Germany.
- OLAF's documentation and information management systems were wholly rebuilt during the year, centralising all information in one place, updating and extending the electronic Case Management System, introducing electronic document management across the Office, and creating a secure Registry ("Grefte") for case-related documents. These improvements have already produced a step change in the quality of management information and over time will lead to a significant increase in OLAF's operational and strategic analysis capability.
- Recruitment of experienced specialised staff to new posts was completed. The development of OLAF's specialist intelligence, legal, and follow-up functions continued so far as resource constraints allowed.
- Public interest in the work of OLAF, as measured by the number of website hits, increased dramatically during the year.

FORWARD LOOK

The main developments anticipated over the next reporting period (the 12 months ending on 30 June 2004) are as follows:

- The implementation of structural and organisational changes to strengthen further the two key priorities, namely **zero tolerance of internal corruption**, and **enlargement**. The reallocation of existing and the allocation of new resources to these priorities in the context of the investigation policy described in the 2004 Work Plan.
- Development of improved investigation working methods, promoting flexibility, involving management more closely in key investigations, and furthering a common investigative culture.
- Reduction in the average time needed to complete all investigations and cases, including high-profile cases, through the creation of multi-disciplinary task forces where circumstances so justify.
- Final elimination of the backlog of ex-UCLAF cases.
- Reinforcement of the role of the intelligence units in order to increase the use of risk assessment, to identify threats earlier, and to help prioritise OLAF investigations and operations.
- Implementation of the revised, comprehensive OLAF Manual (on 1 August 2003).
- Implementation of the recommendations of the Commission's Article 15 Report, taking account of the views of the Supervisory Committee, and once discussion with other Institutions and interested parties is complete.
- Improvement of management structures in light of a management audit.
- Further development of the proposal for a European Public Prosecutor.
- Increased exploitation of the improvements to OLAF's Case Management System, particularly through more effective prioritisation of investigations and operations. Further improvement to the CMS notably through the inclusion of an intelligence module.
- Development of OLAF's role as a "service platform", providing support, specialist facilities and co-ordination and communication networks for partner services in the Member States.
- Strengthening of the Anti-Fraud Co-ordination Structures (AFCOS) in Acceding and Candidate Countries, and enhanced activity in other preparations for

enlargement. This will include increased OLAF activity on the ground, targeted to achieve maximum impact so that OLAF can demonstrate the physical capacity as well as the political resolve to deal from the beginning with fraud and corruption affecting the EU budget in the new Member States.

- Resources permitting, OLAF regional liaison officers will be posted in a number of Acceding and Candidate Countries.
- Strengthened operational co-operation - with other international agencies (including the creation of a dedicated multi-agency investigation team); with other institutions; with Europol and Eurojust; and with judicial and other authorities in Member States, Acceding and Candidate Countries and third countries. Further Memoranda of Understanding will be agreed where appropriate.

MISSION STATEMENT

OLAF's Objectives

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

OLAF's Methods and Means

The European Anti-Fraud Office achieves its mission by conducting, in full independence, internal and external investigations. It also organises close and regular co-operation between the competent authorities of the Member States, in order to co-ordinate their activities for the protection of the Communities' financial interests and the fight against fraud. OLAF supplies Member States with the necessary support and multidisciplinary technical know-how to help them in their fight against economic and financial crime. It strives to contribute to the design of the European strategy for the fight against fraud and illegal activities and takes the necessary initiatives to strengthen the relevant legislation.

OLAF's Principles

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

1. INVESTIGATION ACTIVITY

1.1 Introduction

The period covered by this Report is the second full-year period for which reliable data is available in OLAF's Case Management System (CMS). Wide-ranging improvements to the Office's information management infrastructure and to the data quality, as detailed in chapter 2, have enabled more accurate analysis.

The CMS is a unique data source for the Office's operational activities. Initial information received by OLAF is registered as a unique case record in the Case Management System and undergoes 3 major stages of processing: Assessment, Investigation and Follow-up. Initial assessment leads to a recommendation on whether an investigation should be opened and if so, under which type of administrative category: internal investigation, external investigation, co-ordination case and criminal assistance case. If it is decided that there is no need to open an investigation, for whatever reason, then the case will be classed either as a monitoring case or a non-case.

Once the investigation activity has been completed following specific formal procedures and approval by OLAF's Investigations and Operations Executive Board, the case moves to the follow-up stage¹. Follow-up includes various activities designed to ensure that the competent Community and national authorities have executed the legislative, administrative, financial, disciplinary or judicial measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, closure of the follow-up case is formally taken. At all times during the life cycle of a case, the CMS keeps track of case related activities.

This Report refers to case records registered and stored in the CMS and to cases specifically in the assessment, investigation and follow-up stages. The unique case reference follows the case at all stages of the process.

As described in last year's Report, OLAF's predecessor, UCLAF, with its narrower sphere of responsibilities, managed a different system of recording the opening and closing of investigations. As most UCLAF investigations have now been closed, future Reports will reflect trends in the workload of OLAF more accurately.

OLAF's operational activities continue to expand with an increase of 4% in overall numbers of new case records registered in the CMS in the principal area of business: the investigation of suspected fraud against the financial interests of the European Community. The steady statistical growth does not in itself indicate the range of complexity nor seriousness of resource intensive casework. Nor does it reflect the deterrent impact of increased anti-fraud measures strengthened by increased human resources and more robust case

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

management. Care is thus needed when drawing conclusions simply from case statistics.

In OLAF's pursuit of a "zero tolerance" policy towards corruption and fraud within European Institutions, priority continued to be given to internal investigations: 64 new case records were registered in the CMS while 30 new investigations were opened. Despite a reduction compared to 39 in the previous year, this still represents 11% of the overall new caseload, while attracting the highest level of scrutiny and employing additional resources.

OLAF also gave priority to operational activities relating to the enlargement process, involving misuse of EC funds directed towards the enlargement process and where trading patterns and businesses involving the Acceding and Candidate Countries appear to be linked to any activity against the financial interests of the EU.

Overall, there are substantial fluctuations between different sectors of activity. The end of the investigation cycle of old cases has led to the doubling of the number of cases in the areas of financial and judicial follow-up.

1.2 Statistical Overview

The main statistical results of the past 12 months can be summarised as follows:

- The total number of new case records registered in the CMS increased by approximately 4% (from 539 to 563).
- The UCLAF legacy has diminished considerably. Most cases have been closed. Only 49 out of 1 423 cases remain active. This is the result of a major operation by the Office to deal with old cases, especially in the sectors of Customs, Structural Funds, Direct Expenditure and External Aid.
- By 30 June 2003, the end of the current reporting period, there were 3 440 case records stored in the CMS, an increase of 18% over the previous year. Of those, 1 423² had been inherited from UCLAF.
- Cases in follow-up increased almost two-fold from 273 to 477 cases by the end of the reporting period, primarily due to the rise of 71 cases in the Structural Funds sector and of 62 cases in the field of direct expenditure and external aid. In relative terms, the most significant increases are in the agriculture, direct expenditure and external aid sectors. Full details are illustrated in Figure 3.1.
- During the course of the reporting year ongoing investigation activity focused on almost 1 200 cases covering all OLAF sectors. Figure 1.1 highlights the human resources employed for each sector. The quantities of

² Numbers referring to earlier years may deviate slightly from those reported last year due to data revision.

cases treated, however, does not indicate the complexity of each case or time spent.

Figure 1.1 Investigation activity and human resources employed by sector

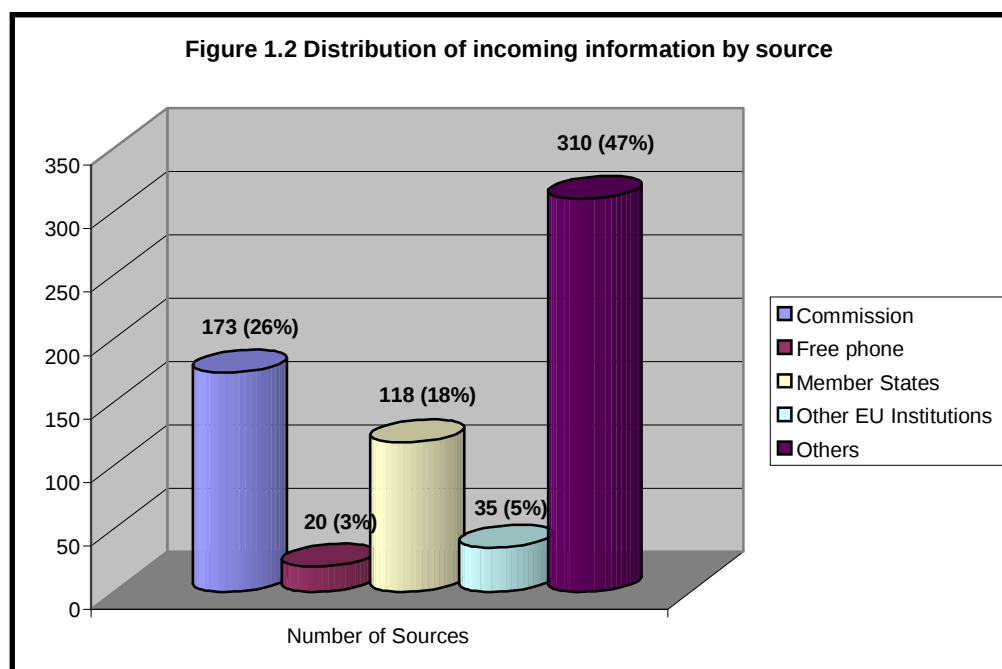
OLAF Sector	Cases treated	Human resources per sector at the end of the reporting period
Anti-Corruption	70	13
Direct Expenditure & External Aid	371	25
Structural Funds	241	15
Agriculture	218	20
Cigarettes, Alcohol & VAT	69	18
Customs	215	18
Grand Total	1184	109

1.2.1 New Case Records

During the current reporting period, OLAF received 656 reports of alleged fraudulent activity from many sources. Assessment and identification of duplicate information led to the registration in the CMS of 563 new case records concerning 585 separate subjects. This reflects a 4% increase compared to 539³ new case records registered last year.

The sources of the registered incoming information during the reporting year are displayed in Figure 1.2 below.

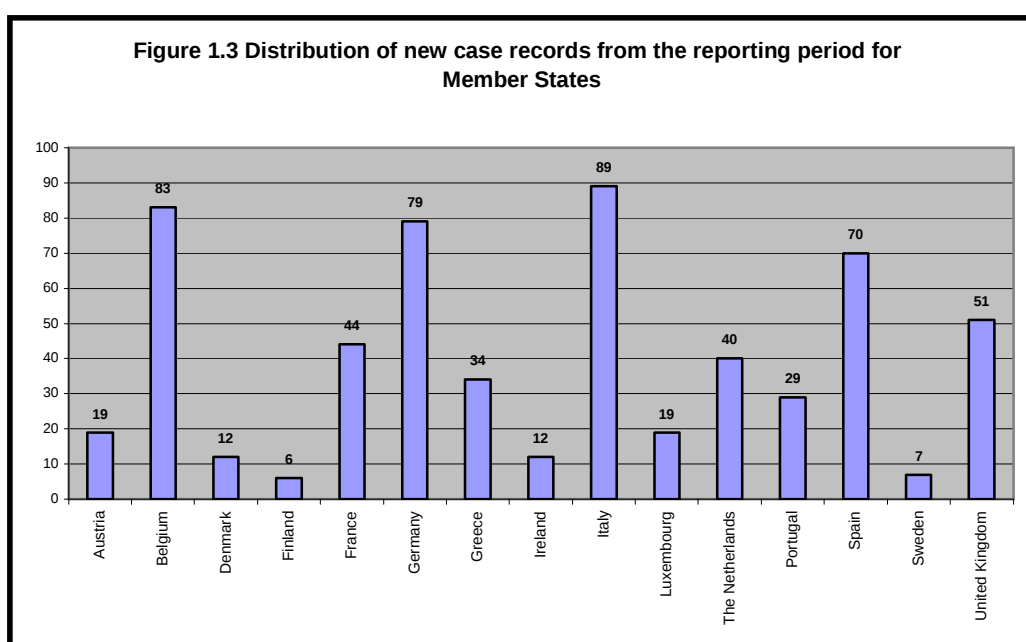
Figure 1.2 Distribution of incoming information by source



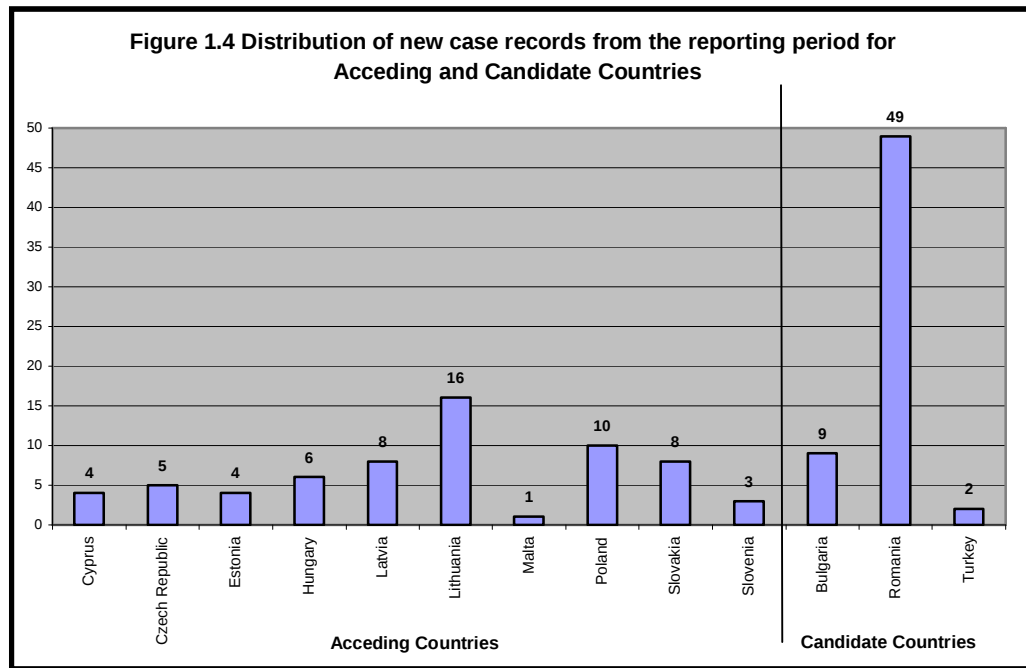
³ In last year's Activity Report, OLAF reported 552 new cases records. The revised number is 539. Revisions are due to data input errors or the identification at a later stage, (usually on assessment) as an existing case.

The Commission remained the largest single source providing 173 case records (26%), with Member States providing significant amounts of information through both formal and informal channels (18%). The group “Others” (47%) includes information coming from a variety of sources, such as the public and the media and unspecified informants. OLAF intends to collect more detailed data on such sources of information for next year’s report.

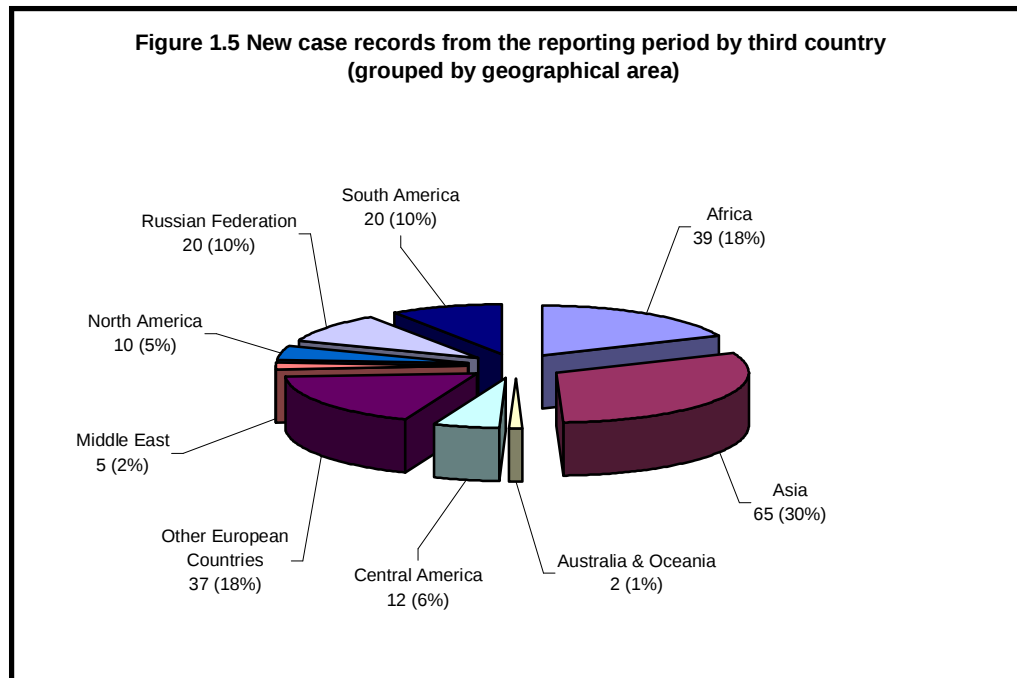
Analysis of the geographical spread of the entities and persons involved in suspected fraudulent activities as contained within the incoming information are shown in the following three figures: Figure 1.3 focuses on Member States, Figure 1.4 on Acceding and Candidate Countries⁴ and Figure 1.5 displays other countries grouped by geographical area.



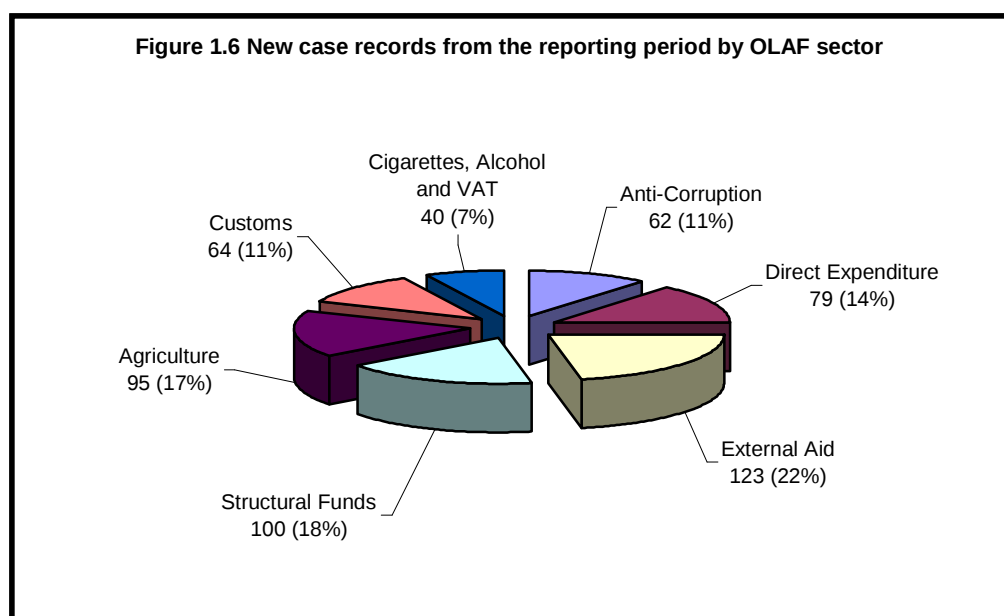
⁴ Candidate Countries include Bulgaria, Romania and Turkey.



In many cases more than one country is mentioned, for example the country source of the information and the country or countries where the fraud was allegedly committed.



There are considerable fluctuations between OLAF sectors compared to last year. For example, the proportion of Customs case records registered in the CMS fell from 20% last year to 11% this year, while the proportion of Direct Expenditure and External Aid rose from 32% last year to 36%. The Structural Funds sector also experienced an increase from 15% to 18%, as did Agriculture (from 14% to 17%). The proportion of Anti-corruption and Cigarettes, Alcohol and VAT cases remained stable at 11% and 7% respectively. Figure 1.6 provides the breakdown of the 563 new case records registered in the CMS by OLAF sector.

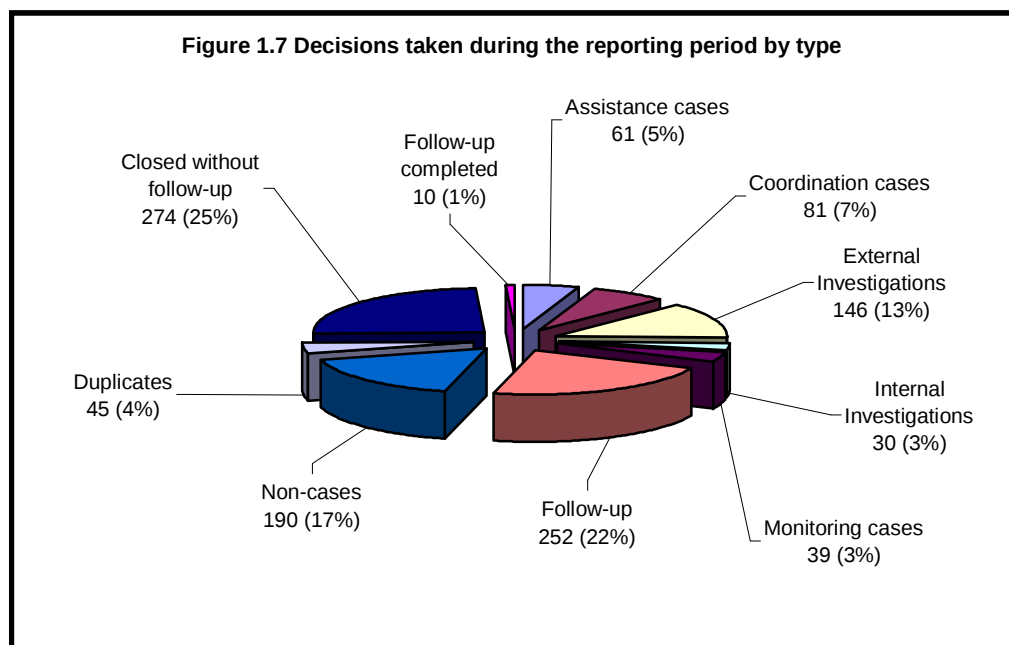


Last year's Activity Report outlined the process of information processing and management. Once new information concerning alleged frauds is registered in the CMS and subsequently assessed, a formal decision making process is ensured by the OLAF Board. Opening decisions can be one of the following: internal investigation, external investigation, criminal assistance case, co-ordination case and monitoring case. Closing decisions can be one of the following: follow-up, follow-up completed⁵, closed without follow-up, non-case and duplicates.⁶

Figure 1.7 provides the breakdown of all opening and closing decisions taken during the reporting period by type.

⁵ The duration of the follow-up phase varies according to the circumstances and complexity of the case. If court procedures are involved, the follow-up phase can often be very protracted.

⁶ When registered information is assessed and identified as a duplicate but from more than one source or due to data input error.



Growing experience gained during the lifetime of OLAF has enabled improved prioritisation when opening investigations or cases: this has led to a decrease of 10% in decisions to open cases and an associated increase in the number of non-cases.

The category of “*monitoring*”⁷ case that was introduced towards the end of last year’s reporting period is now widely used, with 38 cases compared to 7 cases last year.

1.2.2 Old Cases

The Task Force “Old Cases” (TFOC) was created by the Director General of OLAF in December 2002 to manage and examine cases which had been opened prior to 1 January 2000. This new arrangement allowed for an initial concerted analysis of the progress of these cases, hitherto delayed due to staff changes and the transition from UCLAF to OLAF. By the end of this reporting period there were only 212 cases outstanding, divided by sector as shown in Figure 1.8.

⁷ A monitoring case is a special case of follow-up. No OLAF investigation is opened since a national authority is better suited to investigate the matter, but the information is deemed sufficiently interesting, e.g. for fraud proofing, that OLAF wishes to follow-up on the case.

Figure 1.8 Old cases by sector treated by Special Task Force

OLAF Sector	Cases
Anti-Corruption	24
Direct Expenditure & External Aid	42
Structural Funds	146
Grand Total	212

It is worth noting that 143 cases in the Structural Funds sector were in the follow-up stage with only 3 under active investigation, whereas in the other sectors, the majority were under active investigation. The TFOC recommended closure for some cases and justified the progression of the most significant cases for judicial follow-up. Important cases (such as those relating to Eurostat) were identified and dealt with separately.

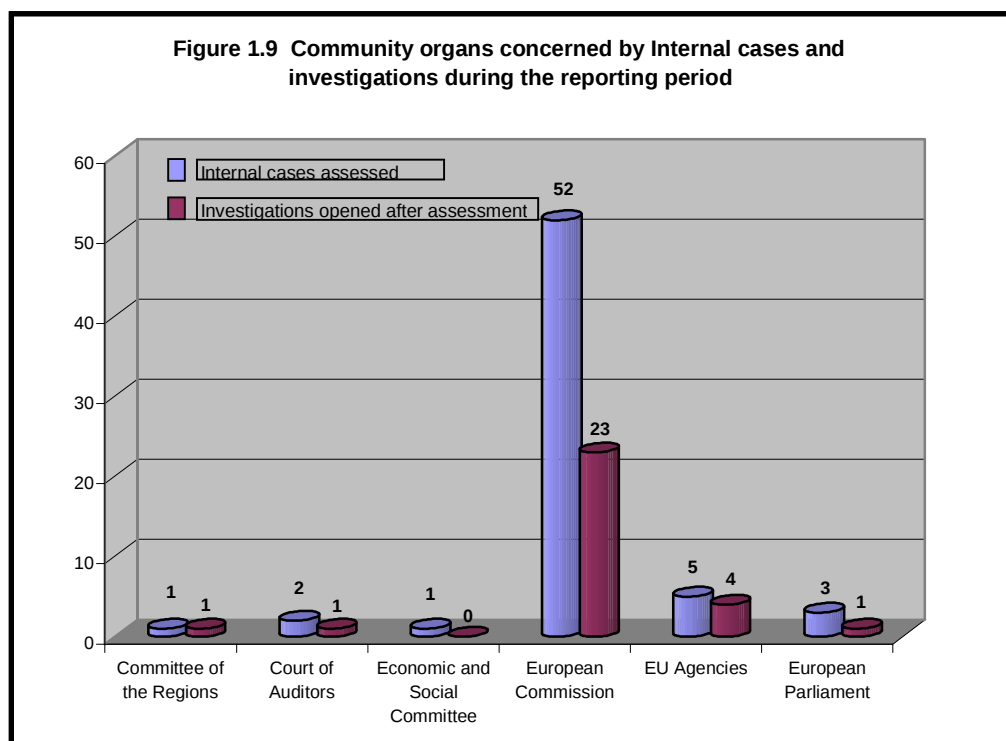
It is envisaged that the active investigations will be completed by early 2004.

1.3 Internal Investigations

During the reporting period, OLAF conducted internal investigations in the majority of the European Community organs⁸, with 64 new case records registered in the CMS and assessed, and 30 new investigations opened.

Figure 1.9 confirms that as the Commission carries out the vast majority of financial transactions within the EU Institutions, it inevitably accounts for the large majority of initial allegations and also of internal investigations.

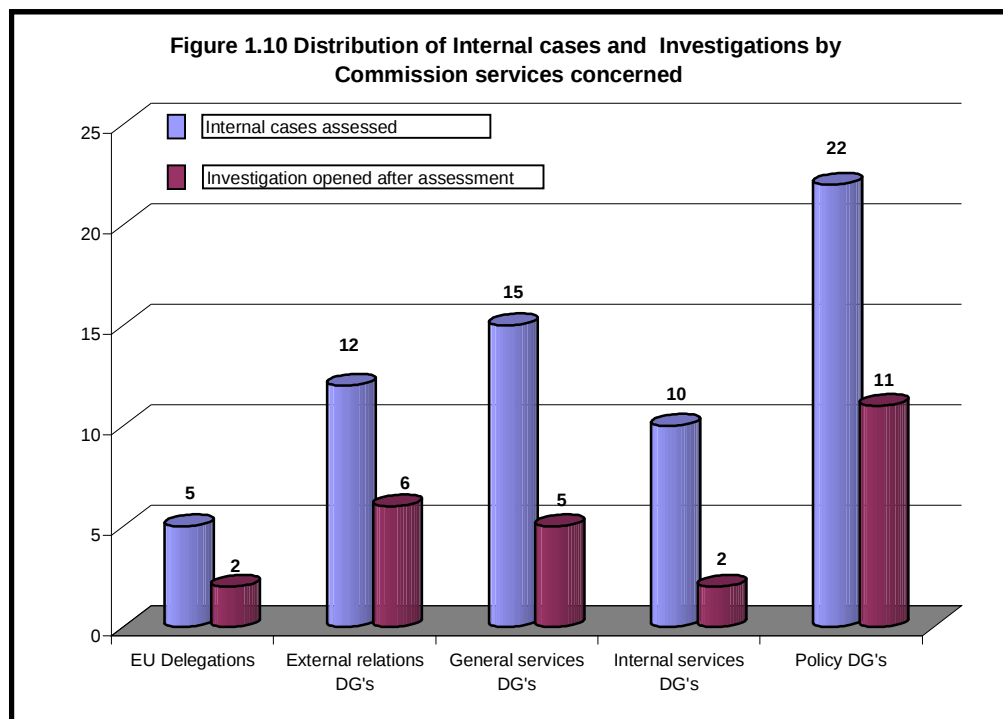
⁸ Institutions, bodies, offices and agencies



In response to a recent request by the European Court of Auditors to provide information on internal investigations conducted in agencies, OLAF has produced a further breakdown of the number of allegations and investigations within six groups⁹ of the Commission.

Figure 1.10 illustrates this distribution by Commission Service: Policy DGs, External Relations DGs, General Services DGs, Internal Services DGs, Agencies and EU Delegations. Several allegations and investigations relate to more than one Commission Service.

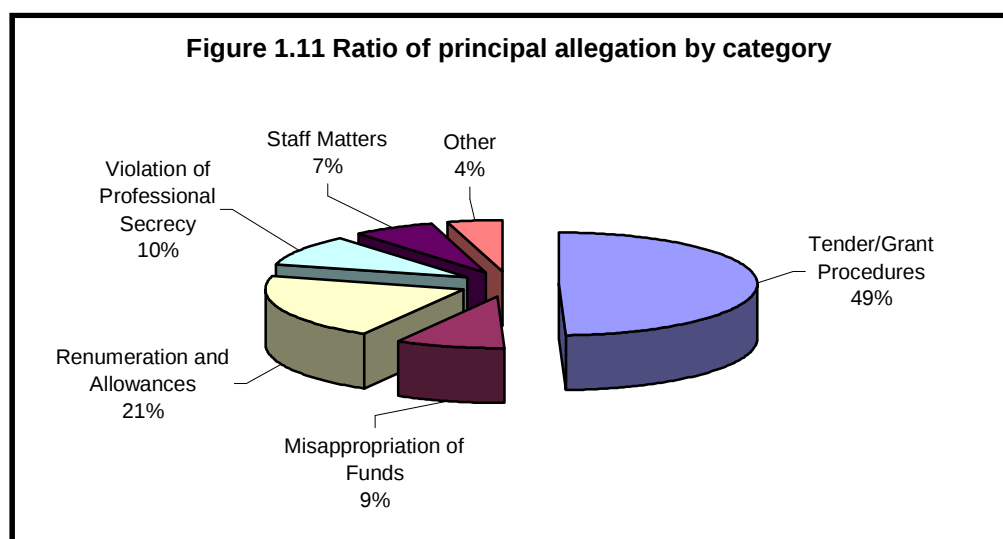
⁹ The first four groups follow the description of the Commission Services on the EUROPA Website. Further subdivision into agencies and EU delegations follows a recent request of the European Court of Auditors.



By analysing the principal allegations received by OLAF made against the behaviour of officials the following categories can be identified:

1. Irregularities/fraud/corruption in tender/grant procedures and in contract award and execution including any conflict of interest;
2. Misappropriation of funds;
3. Irregularities/fraud/corruption in remuneration and allowance matters (mission and medical expenses, other allowances, corrective coefficient, invalidity scheme);
4. Violation of professional secrecy and other abuse of functions;
5. Irregularities/fraud/corruption in staff matters (competitions, recruitment, nominations, promotions, etc.)

Figure 1.11 illustrates these identified categories by percentage of total allegations received.



By the end of the reporting period, the CMS recorded a total of 75 ongoing internal investigations and 24 internal cases under assessment. In September 2002, teams of investigators were formed to deal with specific sectors in the field of internal investigations. This has improved procedures and enhanced professional standards, with the prospect of reducing the time needed to deal with cases.

Co-operation with the Community organs is continually improving. Initiatives have been undertaken to strengthen and formalise working relationships with the Internal Audit Service (IAS) and with the Investigations and Disciplinary Office of the Commission (IDOC).

Case Study

Following an in-depth investigation by OLAF, Ms. K, an official of the European Commission, was convicted in the Court of First Instance in Brussels of forgery, fraud and deception. It was alleged that she had created false documents in support of travel indemnity claims for participants at meetings which were never held. The Court imposed a sentence of 40 months imprisonment and a financial penalty of approximately €15 000. In addition she was ordered to reimburse the Commission approximately € 670 000.

1.4 External Investigations

The largest number of cases the Office handles is external investigations. These fall into several categories: direct expenditure and external aid, structural funds, customs, agriculture, and cigarettes, alcohol and VAT.

1.4.1 Direct Expenditure and External Aid

OLAF plays the leading role in the investigation of direct expenditure and external aid cases, since these concern expenditure managed wholly by the Commission and other Institutions, such as the European Investment Bank (EIB), rather than by Member States.

The caseload in this sector has increased considerably over the last year: OLAF assessed information from 215 initial case records compared to 174 in the previous reporting period, reflecting a 23% increase. The Office continued to concentrate on operational co-operation with Member States and with Acceding and Candidate Countries and on strengthening its network of contacts, particularly within the AFCOS and with Europol. A network of OLAF liaison officers is still under consideration, and for the sector of external aid, the Balkan region has been identified as a high priority area.

During the reporting period, OLAF informed the competent national criminal authorities of alleged criminal offences relating to 30 cases in the sector of direct expenditure and external aid. This reflects a new approach in investigative activity in this sector aimed at securing individual responsibility for malpractice both at the administrative and at the criminal level.

In some countries, OLAF assisted the national competent authorities to carry out investigations, and to work in joint teams with local investigators. For example, close co-operation and a significant level of exchange of information with the Romanian authorities led to visits for at least one week every two months to Romania by OLAF investigators, in consultation with the Commission delegation. Hence the relatively high level of Romanian related cases compared to other Candidate Countries.

Figure 1.12 shows all External Aid cases from relevant programmes¹⁰ in Acceding and Candidate Countries.

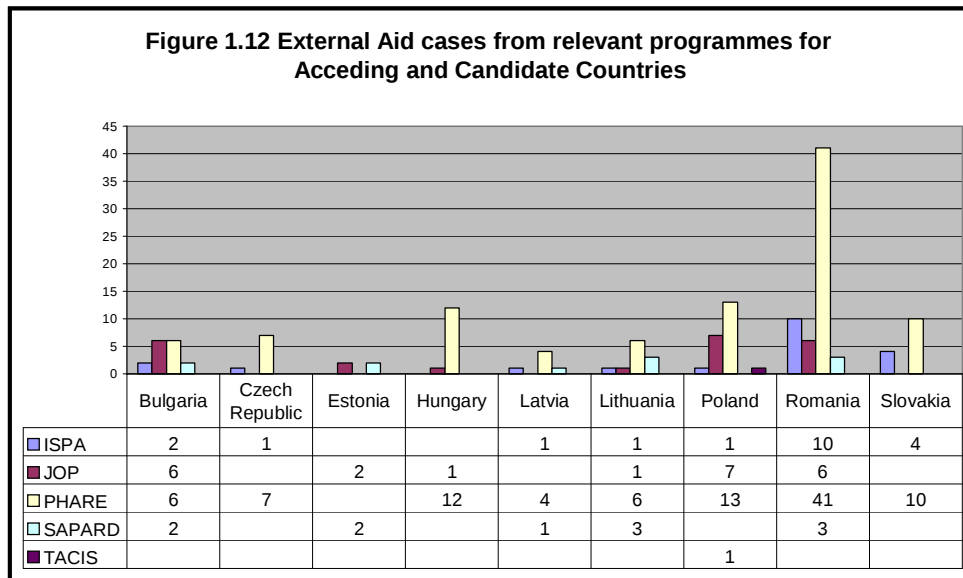
¹⁰ ISPA: Instrument for Structural Policies for Pre-Accession.

JOP: Joint Venture Programme

PHARE: Technical assistance for 10 Central and Eastern European countries. (formerly Poland and Hungary Assistance for the Reconstruction of the Economy.

SAPARD: Special Accession Programme for Agriculture and Rural Development

TACIS: Technical Assistance for the Commonwealth of Independent States.



An increasing number of external aid cases involve aid to countries in Latin America, Africa and Asia as illustrated in Figure 1.13. This sector will require special attention in the future with plans for increased contacts with national law enforcement authorities in those regions. Initial steps have been taken. For example, OLAF has established working relations with the Attorney General's Office in Lesotho and with the specialised anti-fraud investigation service known as "the Scorpions" in South Africa.

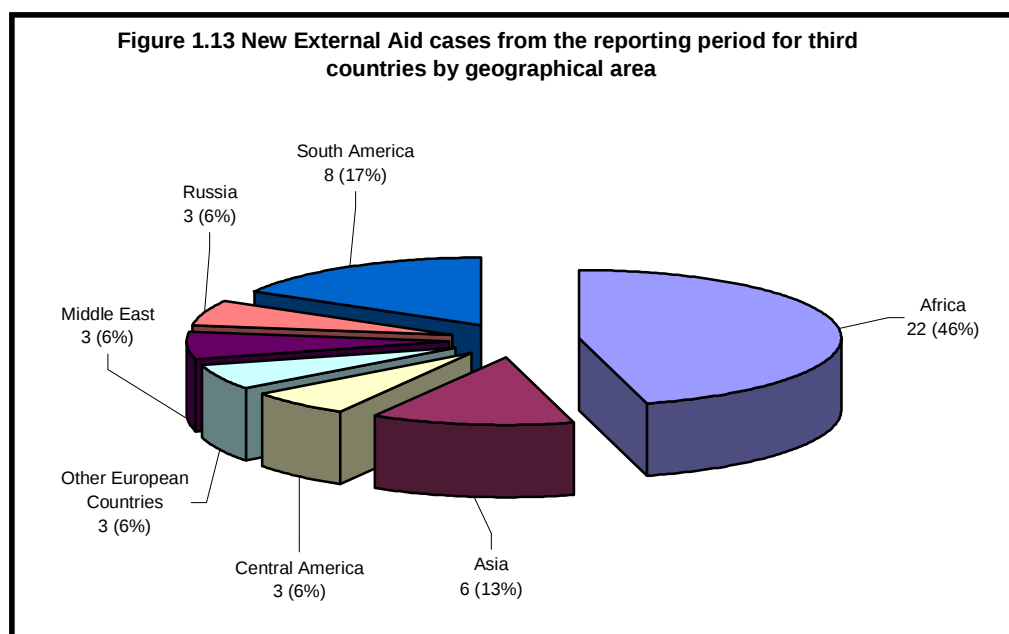
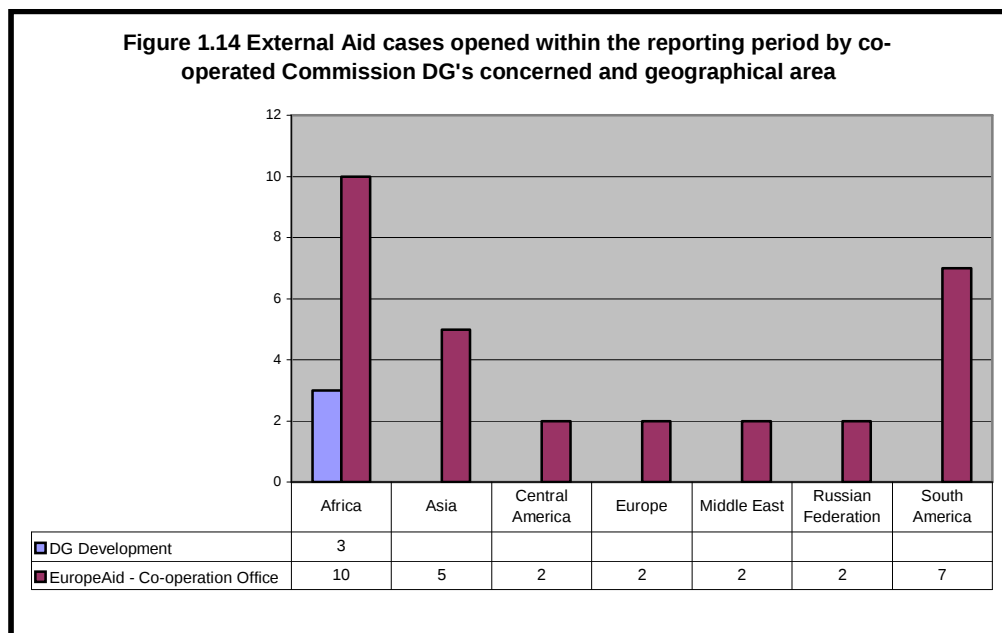


Figure 1.14 illustrates the number of external aid cases opened during the reporting period in close co-operation with Commission DGs.



Another priority area has been the financing of specific non-governmental organisations (NGOs). OLAF has carried out its own investigations and has also been invited to participate in sensitive investigations where there has been suspected involvement of organised criminal groups. The intelligence units in Directorate C have also given particular attention to this area.

OLAF has increased the level of co-operation with specialised investigation bodies within its international partners, such as the United Nations and the World Bank. These institutions face similar problems in deterring and detecting misuse of aid. OLAF hosted the Fourth Conference of International Investigators in April 2003, where agreement was reached on common investigative standards (see paragraph 5.4). Co-operation on the ground, for example in the Balkan region, led to judicial enquiries and to the arrests of suspects currently awaiting trial. Consideration is now given to operational co-operation in joint task forces where common needs are identified. This new operational co-operation will be tested in the course of the next reporting period.

Case Study

At the end of April 2002, the United Nations Mission in Kosovo (UNMIK) referred a case of suspected fraud to OLAF in relation to the alleged misappropriation of funds intended for the electricity sector in Kosovo. OLAF opened an external investigation.

Following initial enquiries in Kosovo it was established that the funds in question had been remitted to personal bank accounts in Gibraltar. A further

attempt by the principal suspect to send the funds from Gibraltar to Belize was thwarted. The Attorney General of Gibraltar responded to OLAF's application and obtained a Supreme Court order to freeze the relevant bank accounts. In August 2002 OLAF was able to secure the return to the Kosovo budget of € 2.7 million (\$US3.2 million) and in January 2003 OLAF caused proceedings to be launched in Gibraltar to secure the return of the balance and to gain access to the bank account records. On completion of its investigation, OLAF transferred all the evidence gathered about the suspected fraud to the German judicial authorities.

In December 2002 the principal suspect was arrested by the Prosecutor's office in Bochum. In June 2003, a former U.N. Official in Kosovo was sentenced in Germany to 3.5 years in prison for the embezzlement of \$US 4.3 million (€ 3.9 million) from funds intended for the KEK (Kosovo Electricity Company). OLAF worked in co-operation with the UN Office of Internal Oversight Services (OIOS) in New York, judicial authorities in Germany and Gibraltar, UNMIK in Kosovo, the European Agency for Reconstruction (EAR) and Government authorities in Serbia.

Case Study

In mid 2002, suspicions by the EU Delegation in Croatia led to an investigation by OLAF into the activities of a senior legal consultant who was employed on an institution-building project. He was contracted to provide technical assistance to the Ministry of European Integration over a period of 2 years, ending in August 2002.

OLAF established that the consultant had provided limited input to that project as he was simultaneously contracted to other EU funded projects in 3 different countries. He had therefore presented invoices for a total number of working days in excess of actual working days possible. Additionally, he was also otherwise gainfully employed.

In December 2002, OLAF presented its findings to the relevant German Prosecutor who subsequently issued arrest and search warrants. OLAF supported the German police investigators with technical assistance during the search and co-operated closely in evaluating the evidence. With the assistance of external auditors, it has been estimated that the financial loss to the European budget is € 110 000. A decision on court proceedings will be taken shortly in Germany.

1.4.2 Structural Funds

During the reporting period the Structural Funds sector evaluated 94 records. This led to the opening of 39 external investigations, of which 41% were European Social Fund (ESF), 28% were European Regional Development

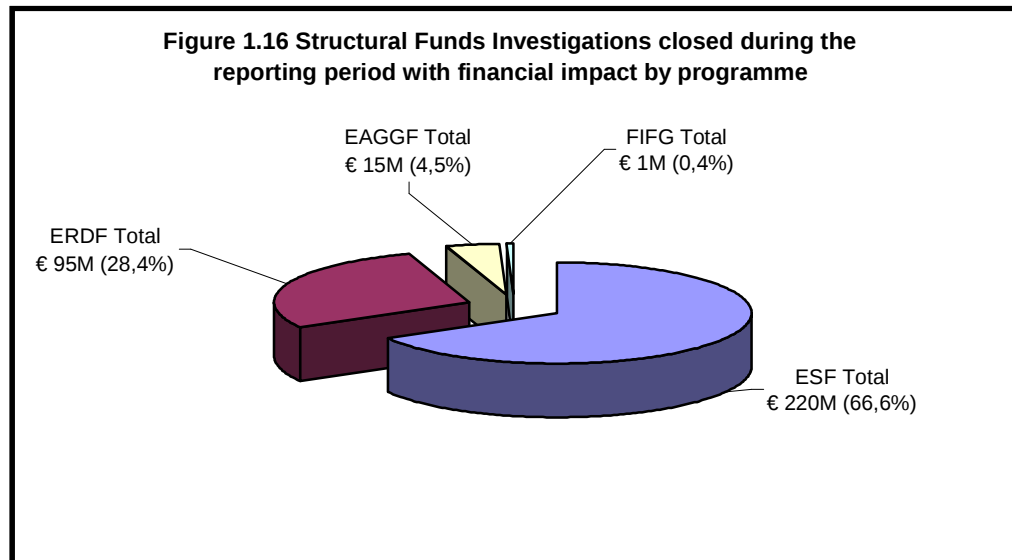
Fund (ERDF), 15% were European Agricultural Guidance and Guarantee Fund (EAGGF), 10% were Financial Instrument for Fisheries Guidance (FIFG) and 2% were Cohesion Funds. Priority was given to serious cases and those with a transnational element.

While 188 cases were closed at the operational stage, only 41 were considered as non-cases. The remaining 147 consisting of ESF (46%), ERDF (21%), EAGGF (28%) and FIFG (5%), many of which were forwarded for judicial follow-up and/or financial recovery. Particular effort was dedicated to closing old cases created by UCLAF. Some were sent for financial or judicial follow-up. Others required no further action. Figure 1.15 provides the details by Member State and by Fund.

Figure 1.15 Distribution of Structural Funds cases closed during the reporting period by Member State and by Fund

Country involved	ERDF	EAGGF	ESF	FIFG	Grand Total
Austria	1				1
Belgium		3			3
Denmark					0
Finland			1		1
France	2	13	1	1	17
Germany	5		4		9
Greece	2	5	5		12
Ireland		1			1
Italy	12	13	37	3	65
Luxembourg					0
The Netherlands			2		2
Portugal	5	2	8		15
Spain	2	4	4	3	13
Sweden			1		1
United Kingdom	2	1	4		7
Grand Total	31	42	67	7	147

The financial impact of the 147 closed investigations is estimated to be approximately € 330 million, primarily due to the high value of a few specific investigations. These successful results were obtained by targeted operational steps strengthened by risk analysis produced by OLAF's Intelligence Directorate and by effective legislation (on-the-spot controls under Regulation 2185/96). They were also achieved due to close and direct co-operation with Member States authorities and positive co-ordination with the relevant Commission services. The most common fraudulent methods identified were false invoices and false expenses declarations with no documentary support. Figure 1.16 below provides the estimated financial impact by programme.



Case Study

As a result of an enquiry by the European Parliament and of reports by the media indicating that Community funds had been misappropriated, OLAF obtained further information from DG EMPL. Subsequent examination of the available information led OLAF to alert the national police authorities, with a view to co-operating with them and providing them with technical assistance. A co-ordination case was opened with the Guardia di Finanza, Italy. OLAF organised several co-ordination meetings in order to facilitate exchanges and planning.

The investigations in Italy subsequently revealed that of the € 1.44 million of funding available from the European Social Fund (ESF) for 26 on-line training courses, almost half, € 697 217, had been misappropriated. Indications of over-pricing on invoices and falsified documents were identified during the operation. A file was subsequently sent to the national judicial authorities, alleging that ten individuals had been involved in a conspiracy to embezzle Community funds. Steps have been taken to recover these funds.

1.4.3 Customs

The Customs sector deals with cases involving all types of industrial products, and also seafood and drug precursor chemicals. Figure 1.17 gives an overview of the types and frequency of fraud encountered.

Figure 1.17 Customs Investigations by type of fraud

Type of Fraud	Active	Follow-up	Non Case	Grand Total
False description of goods	7			7
False origin declaration	19	1		20
False quantity declaration	2			2
False supporting documents	1			1
Other false declaration	2			2
Other fraud	16			16
Other transit fraud	1			1
Non Cases			11	11
Grand Total	48	1	11	60

The main area of risk in this sector is the circumvention of anti-dumping duties. These represent 30% or more (sometimes much more) of a product's value, compared to conventional customs duties, which now average 3-4% of the product's value. At the end of the reporting period, anti-dumping duties were in place on 68 products. Investigations were carried out in relation to 26 of those products while investigations relating to a further 12 products were closed.

Overall, the reporting period saw an increase in the volume and the pace of operations due to an increase in investigation staff from 9 to 18. This led to a slight reduction in active cases from 145 to 130, offset by a significant increase in co-ordination activities. The latter add value by facilitating and encouraging greater co-operation between Member States. Several cases demonstrated full co-operation with Acceding and Candidate Countries.

One important development is that Member States are increasingly taking more account of Community legislation in the matter of "Good Faith" shown by importers and are adapting their operations accordingly.

Case Study

On the basis of information provided by both economic operators and a Member State's customs administration, OLAF opened an external enquiry in June 2001 concerning the importation of ring binder mechanisms into the Community under preferential certificates of origin from Thailand. These were suspected to be of Chinese origin, in which case anti-dumping duties of 78.8% would have been due. A mission to Thailand confirmed initial suspicions that only a third of the mechanisms were assembled in Thailand, while the remainder was imported directly from China. In addition the assembly process in Thailand was such that none of the product could be considered as of

genuine Thai origin. The authorities in Thailand co-operated fully. The duties to be recovered total more than € 3 million.

Case Study

In March 2003, OLAF closed an investigation into the fraudulent importation of persulphates into the European Union. This investigation was opened in January 2000 on the basis of information received from a number of Member States and industry sources. Persulphates are chemical compounds used as oxidising agents and bleaches in such varied domains as the chemical industry, food conservation, medical analysis and petroleum extraction.

The investigation established that persulphates originating from China had been imported into the territory of the European Union in violation of anti-dumping regulations. The applicable regulations, in force between 1995 and April 2002, applied an anti-dumping duty of 83.3% on the value of the imported goods. By means of false declarations of origin, more than € 5 million of anti-dumping duties were evaded.

OLAF initiated and co-ordinated the case in close co-operation with the competent services from Belgium, Finland, Germany, Italy, the Netherlands, Spain and the United Kingdom. Recovery of the evaded duties is currently being undertaken by the Member States in accordance with the applicable national legislation. To date more than € 2.5 million of the evaded duties have been recovered.

OLAF continued to disseminate information to its partners on the movements of controlled precursor chemicals which can be used in the production of illicit drugs, in order to prevent diversion of legitimate consignments to drug traffickers. OLAF also played an important role as a member of the steering committees of the international monitoring initiatives relating to certain chemicals. OLAF also participated in Commission working groups led by DG TAXUD and DG JAI. OLAF is involved in the “Prism project” to counteract illicit trade in precursors used to produce synthetic drugs. The Office’s experience in this international domain could also serve as a basis for the co-ordination of investigations into other matters such as counterfeiting.

1.4.4 Agriculture

The Agricultural Sector deals with fraud both in agriculture and in international trade in agricultural products with third countries. Figure 1.18 shows the breakdown of investigations carried out by product and by agricultural measure in this sector during the reporting period.

Figure 1.18 Breakdown of Agriculture Investigations by product and by the agricultural measures involved

Product	Active	Monitoring	No Follow-up	Non Case	Grand Total
Alcohol Imports	1				1
Banana Imports	2				2
Cereal Imports	1				1
Dehydrated Fodder		1			1
Egg Products	1				1
Fruit and Vegetables	7	1			8
Live Animal Imports	1				1
Meat	16		6	2	24
Milk Products	5				5
Milk Quota	1	1			2
Multiple Products	6		1	1	8
Olives and Olive Oil	1				1
Organic Production	1	1			2
Set Aside	2				2
Special Agricultural Measures	1				1
Sugar	9				9
Wine	5	1			6
<i>Other Non Cases</i>				22	22
Grand Total	60	5	7	25	97

The large majority of investigations relate to meat since OLAF is frequently asked to verify the authenticity of Russian customs import documents presented by EU exporters to the paying agencies in the Member States in order to obtain export refunds. The number of these co-ordination cases is decreasing since the export refund may now be granted on the basis of a positive reply received by Russian Customs through the “Mutual Information System” (MIS).

A second product of increasing significance in terms of the number of cases opened is sugar, as described in the case study below.

Other main areas of concern in relation to both their financial impact and their management by the Member States include set-a-side of agricultural land and organic production.

Case study

In response to information from various sources indicating a massive increase in the amounts of sugar being imported into the territory of the European Community from a number of countries in the Balkans (more than 250 000 tonnes in 2001-2002), OLAF opened a number of investigations. The motivation for the increase in imports is closely linked with a Regulation applicable from September 2000, whereby these countries were able to benefit from preferential trade conditions in exporting their goods to the European market. Previously, certain countries in the Balkans region were net importers of sugar.

As Croatia is not a known producer of sugar cane, a case related to imports into Greece of a mixture of beet sugar and cane sugar declared as originating in Croatia has been referred to the judicial authorities in Greece. Judicial enquiries have also commenced in Austria, Italy and Germany against companies which allegedly declared that consignments originated in the Federal Republic of Yugoslavia, instead of in the EU and other countries.

OLAF has carried out investigations to identify diversion from within the EU. Its investigations also aimed to prevent further abuse of the Regulation by highlighting the difficulties in applying the Regulation and its shortcomings. As a result of these findings, on 30 April 2003 the European Commission suspended the preferential regime for Serbia and Montenegro for 3 months. This suspension follows the warning given to importers published by the Commission on 26 June 2002. It may be prolonged should there be further non-compliance in certification and control of origin of the sugar exported.

Investigations supported by analytical and intelligence activities are still ongoing and continue to contribute to successful outcomes by monitoring changes in the trade flow. The amount of unpaid duties to be recovered so far is estimated to be € 700 000. The amount for recovery may increase considerably as the situation develops.

1.4.5 Cigarettes, Alcohol and VAT

Frauds in the areas of cigarettes, alcohol and VAT have shown no signs of abating overall, although the methods and locations of the frauds continually change and develop, often in response to successful actions taken by the specialist services of the Member States, Acceding and Candidate Countries and third countries in co-operation with OLAF. The frauds remain inter-linked: cigarette and VAT frauds are carried out by the same organisations, and both are a means to launder the proceeds of these and other illegal activities. Experience during the year has shown that working closely with the judicial authorities and the investigative authorities in specific cases produces good results and ensures a coherent approach leading to prosecutions and to the recovery of evaded revenue.

It is clear that the Acceding and Candidate Countries have the same serious problems with cigarette and VAT frauds as existing Member States, and that they are already active in combating these. Co-operation has continued to develop. There has been significant investigative activity with, for example, the services of the Baltic States, Cyprus, Malta and Poland. The network of operational contacts is expanding. Representatives of all Acceding Countries participated in the annual Task Group Cigarettes Conference held in Denmark in December 2002. This approach of “working together”, the rapid exchange of operational information and the establishment of mutual trust are vital ingredients in the continued success in the fight against fraud in the area of high-taxed goods and VAT.

VAT fraud continues to be concentrated on high value, easily transportable goods where large profits can be made through carousel fraud using so-called missing traders. All Member States are affected by this type of fraud. The number of cases dealt with depends on the extent to which the Member States wish to have the co-ordination or assistance services of the Office. The combination of the special VAT scheme for second-hand cars together with intra-Community deliveries of these cars has shown a type of fraud that can happen between any of the Member States. Even though the number of cases tackled is fairly small, these cases (as well as the cases involving electronic components and mobile phones) are symptomatic of a wider problem, which needs to be addressed. Figure 1.19 shows the distribution of VAT investigations by product.

Figure 1.19 Breakdown of VAT Investigations by product involved

Product	Investigations
Automobile	3
Food	2
General	2
IT Products	4
Jewellery	2
Mobile Phones	2
Grand Total	15

Concerning alcohol, during the reporting period two investigations were opened, one of import with a false declaration of origin, and a second smuggling case of alcohol mixed with methanol. No oil cases were reported to the Office during the period.

Case study

In May 2003, a multi-national cigarette operation co-ordinated by OLAF culminated in the arrests of 10 people and in the seizure of several tonnes of smuggled cigarettes. In August 2001 the seizure of 25 million British-brand

cigarettes from Lithuania and Latvia in the port of Antwerp led Belgian Customs to request OLAF to co-ordinate a cigarette anti-smuggling operation.

Requests for mutual assistance were sent to the countries concerned including Lithuania, Latvia, Estonia, the United Kingdom, the USA and the Netherlands. A co-ordination meeting was held in June 2002 with representatives of the investigation services of Lithuania, Estonia, Belgium, the United Kingdom and France. OLAF held a second meeting in October 2002, which was attended by investigators from the Netherlands, Germany and Belgium. The investigations had by then identified the route taken by the cigarettes. An important suspect was identified by Customs in Estonia. In Lithuania, an organisation involved in the smuggling was also identified.

On the basis of information gathered by OLAF, FIOD (the Dutch Fiscal Intelligence and Investigation Department) opened a new enquiry into cigarette smuggling from the Baltic States. The smuggling organisation, while using the same consignee as in the Belgian seizure, was using trucks and cover loads instead of ships. The subsequent joint action led to the arrests of seven people in the Netherlands, the seizure of 10.35 million cigarettes and the arrest of three Latvians in Germany, as well as the discovery of some 4 million cigarettes in a warehouse in Belgium. Belgian Customs also found some 35 tonnes of illicit hand-rolling tobacco in another warehouse. A complete tobacco production plant was discovered, used by the criminal organisation to manufacture and package counterfeit British-brand cigarettes. OLAF continues to provide assistance to ongoing investigations and judicial proceedings in the various countries.

1.4.6 Enlargement Investigation/Operational activities

One of the Office's priorities is to identify and prevent fraud or irregularities affecting EU funds provided in support of the accession process. These include funds under PHARE (technical assistance, institution building and development of infrastructure), ISPA (regional development) and SAPARD (development of the agricultural sector). OLAF has co-operated closely with DG ELARG, DG REGIO, DG AGRI and the EU Delegations and with national authorities in the Acceding and Candidate Countries via the AFCOS.

Specific investigation activities during this period related to suspected irregularities or fraud in the procurement and implementation of projects. A number of cases have been referred by EU Delegations in the countries in question due to their supervisory role in the use of pre-accession funds by the relevant national authorities. There have also been allegations of corruption in tendering procedures and other questions about the correct application of relevant procurement rules. OLAF is investigating such cases, in most cases together with the relevant national authorities. Where appropriate, OLAF submits its findings to the judicial authorities.

OLAF is also co-operating closely with the relevant authorities in the Acceding and Candidate Countries to combat international cigarette and

alcohol smuggling and VAT fraud. Experience so far has been positive. All partners recognise the need for rapid and regular exchanges of information in order to tackle some of the largest threats to national and Community budgets. OLAF acts primarily in a co-ordination role in order to ensure that the investigation of serious transnational frauds by the specialist services is approached in a coherent and effective way. A network of contacts is already functioning on a daily basis. It is important that this is reinforced and expanded over the coming year. The placing of OLAF officials in some of the key countries would further improve the mutual exchange of information and reinforce the fight against serious organised frauds. Figure 1.20 details OLAF's investigation activities in Acceding and Candidate countries by sector.

Figure 1.20 Assessments and Investigations by country and by sector at the end of reporting period

<i>Country concerned</i>	<i>Agriculture</i>	<i>Anti-Corruption</i>	<i>Cigarettes</i>	<i>Customs</i>	<i>Direct Expenditure</i>	<i>External Aid</i>	<i>Precursors</i>	<i>Trade</i>	<i>VAT</i>	<i>Grand Total</i>
Bulgaria			4	3	1	3				11
Cyprus	1		4			1				6
Czech Republic	1	1		3		5				10
Estonia				2		2		3		7
Hungary			3	1		8			1	13
Latvia	2		2	4		2	1	1		12
Lithuania			5	3	1	7		1		17
Malta								1		1
Poland	1	1	3	6		10		1		22
Romania	1		2	3		35		1		42
Slovakia				1		8				9
Slovenia			6	1				1		8
Turkey				6		1		1	1	9

2. OPERATIONAL SUPPORT

2.1 Intelligence Activity

2.1.1 Strategic intelligence

To the extent resource constraints allow, OLAF has continued to build an information gathering, analysis and reporting capacity to give strategic direction and support to OLAF's operational activities and to reinforce OLAF's policy role. Output in the reporting period included:

- An in-depth strategic assessment of a third country's economy, with particular reference to the manufacture of and trade in textiles. This analysis has enabled OLAF investigators to gauge the potential risk of fraud in an area of particular importance due to an association agreement with the EU and the possible creation of a free trade zone.
- Analysis of trade flows in the sugar and confectionery sector as part of a risk assessment of possible further abuse of the preferential tariff regimes in agricultural goods, based on OLAF's experience in the Balkan sugar case reported in Chapter 1.
- Development of procedures for risk analysis based on Member State reports of irregularities in the financing of the Common Agricultural Policy and in Structural Funds. It has been necessary to invest considerable time and effort in improving the relevant databases and encouraging Member States to improve both the timeliness and the quality of their communications.

Progress has been made in developing working links and partnerships with various anti-fraud intelligence units in Member States, Acceding and Candidate Countries, third countries as well as with Europol.

Fundamental to the provision of intelligence assessments is the ability effectively to gather and to exploit information. OLAF's capabilities in this area have increased. Work is in hand to develop techniques for data mining and the exploitation of open source information through the Internet and to identify new and improve existing intelligence sources.

2.1.2 Operational intelligence

Operational intelligence includes essential specialist support and assistance to OLAF investigators and to the Member States. For example, intelligence analysts have:

- Identified a need for detailed shipment information in support of anti dumping duty and health prohibition investigations. A technical solution

was discovered which has provided the basis for regular operational analyses;

- Extracted and analysed statistical data from COMEXT in support of a variety of investigations. This includes comparisons between databases to identify anomalies for further investigation. This was also used in a project to identify potential areas of fraud in the agricultural sector as result of enlargement;
- Exploited the Internet to verify the existence, characteristics and trading patterns of certain companies.

Figure 2.1 Investigations supported by Operational Intelligence during the reporting period

OLAF Sector	Investigations Supported
Customs	40
Agriculture	14
Cigarettes	13
External Aid	1
Others	8
Grand Total	76

Investigations supported by operational intelligence analysts are shown above excluding several hundred database enquiries relating to internal cases, some of them complex in nature.

OLAF intelligence teams have identified and addressed several problems in the operational and tactical intelligence areas and have developed new analytical techniques to support investigators in OLAF and in Member States:

- Customs intelligence departments need historical data about the movements of specific containers over sea routes for risk control purposes. OLAF has signed an administrative agreement with the JRC/IPSC (Joint Research Centre Institute for the Protection and the Security of the Citizen) to develop the *ConTraffic-Gateway*. This query tool is a web-based interface to give a single-point access to a number of on-line container tracking systems, allowing the visualisation of the latest movements of the containers transported by those carriers. In order to develop the tool to an operational level, negotiations have begun with carriers to enlist their support by formal agreement.
- During 2003, the project “*One seizure, one report*” was launched between OLAF and the World Customs Organization (WCO). This enables Member States to enter cigarette seizure data into both EU and WCO systems in a single operation, saving time and money and improving data quality. The testing phase began in June 2003. The “*CigInfo*” module became operational within the Anti Fraud Information System (AFIS) later in the year.

- OLAF's Information Support Office continued to provide operational support for the Member States during joint surveillance operations. Technical preparations were finalised to implement the "*Virtual Operation Control Unit (OCU)*" for maritime surveillance operations. The "*Virtual OCU*" will reduce operational costs and the length of the operations by avoiding the need to create a physical central control room staffed by all participants. However, the first test involving operational deployment encountered technical difficulties, which are currently being addressed.
- National operational intelligence departments need better tools to extract information from texts and to access large multilingual text collections compiled from many different sources. OLAF has continued to evaluate research carried out by the JRC/IPSC on information extraction technology to use in combination with document profiling and/or document clustering as an interactive investigative tool.

Throughout investigations, data pre-processing is an essential element prior to analysis. During this reporting period four hundred thousand pages of case-related documentation were scanned and processed into searchable CDs or DVDs and provided to the interested parties within OLAF as well as to external partners.

OLAF continued to provide technical support in forensic computer examination including copying and analysing the content of computers. More than 100 hard disks and more than 50 back-up tapes were forensically imaged during investigations.

2.2 Information support

During the year responsibility for the management of all OLAF's information, both electronic and paper-based, was centralised within the Information Services Unit.

Additional staff were recruited for the newly created Greffe, which manages the originals of case-related documents, as recommended by the Supervisory Committee. A new electronic mail registration system has been put in place. All incoming and outgoing documents are now scanned and are distributed electronically, reducing delays. Since the gradual introduction of this new system from March 2003 more than 85,000 pages have been scanned. Significant improvements were made to the Case Management System (CMS) so that it could serve as the backbone for all operational activities. As a consequence, by the end of the reporting period, OLAF had for the first time a unique data source for all operational activities. The CMS now enables investigators to work within an electronic case dossier. It also now includes a new module for handling administrative, financial and legislative follow-up on the one hand, and disciplinary and judicial follow-up on the other hand.

The need to produce reliable and adequate statistics quickly for the different reports that are either OLAF's direct responsibility, or for which OLAF is asked to provide a contribution, has led to a complete redesign of the reporting

module. Gradually, all reports will be made available in real time thus avoiding the time lag between the official request for information and delivery of statistics. Improvements to the system now permit reports to include a wider range of data for risk analysis. This information will help in future fraud proofing exercises.

Finally, an Information Security Policy was agreed which takes into account the special needs of OLAF.

2.3 AFIS/CIS

2.3.1 The AFIS Communications & Collaboration Network

For over ten years, Member States have exchanged fraud-related information with each other and with UCLAF and OLAF through the AFIS (Anti-Fraud Information System) communication network under the framework of Mutual Assistance (Regulation 515/97). During this reporting period AFIS was extended to cover meat exports to the Russian Federation via the MIS system (see section 3.3) and with the WCO on Cigarette Seizures (see section 2.1.2) and for communications with the Candidate Countries. A new tool was introduced to support the principle of virtual-OCU in the field of Maritime Surveillance with plans to extend the support to Container Surveillance.

2.3.2 Customs Information System & FIDE¹¹

The AFIS communication network does not allow for the storage of sensitive information at European level. The Customs Information System (CIS) was implemented in March 2003 to enable competent partners involved in the application of Customs and Agriculture legislation (cigarettes, alcohol, veterinary activities, counterfeiting, precursors) and in customs legislation in the field of intergovernmental jurisdiction (illicit drugs) to input and interrogate a central database containing sensitive information. This should increase the effectiveness of co-operation and control measures across the EU and prepares the road for the European Customs Files Identification Database (FIDE).

2.4 Legal Support

2.4.1 Judicial Advice Unit

OLAF's Judicial Advice Unit brings together public prosecutors from nearly every Member State. Its main duties are to liaise with national judicial authorities in Member States, to provide in-house legal advice on national criminal law and national investigation and judicial procedures, and to

¹¹ FIDE is the French acronym for Fichier d'Identification des Dossiers d'Enquêtes douanières.

reinforce other areas of the office where needed, notably, but not exclusively, in the conduct of investigations.

At the beginning of the reporting period the unit was associated with 243 cases during the assessment and investigation stages. It also had responsibility for 82 cases in the judicial or disciplinary follow-up stages. During the reporting period, these cases were supplemented by association with a further 100 cases during the assessment and investigation stages and with an additional 122 cases in judicial or disciplinary follow-up. In summary, by the end of the reporting period the unit was associated with 237 cases in assessment and under investigation and with 204 cases in judicial or disciplinary follow-up.

An important aspect of the work carried out by the unit is through its contacts with national judicial authorities in relation to cases in active investigation, assessment or judicial follow-up. Much of the contact is informal by telephone or e-mail. In addition to these informal contacts, the unit made 190 formal contacts in writing with national judicial authorities as listed in Figure 2.2.

Figure 2.2 Formal contacts with countries by the Judicial Advice Unit during the reporting period

Country	Contacts
Austria	2
Belgium	19
Denmark	3
Finland	1
France	14
Germany	67
Greece	18
Ireland	5
Italy	15
Luxembourg	3
Spain	10
The Netherlands	17
United Kingdom	13
Czech Republic	1
Gibraltar	1
Poland	1
Grand Total	190

Formal written judicial legal advice was given to OLAF investigators during the course of investigations on 55 occasions within the reporting period.

2.4.2 Legal Affairs Unit

During the reporting year, OLAF's Legal Affairs Unit gave legal advice to OLAF investigators in relation to EU law issues arising during the course of specific cases, especially regarding the scope of internal investigations and

external investigations, such as on-the-spot checks. Requests for access to documents from the public pursuant to EP/Council Regulation 1049/2001 have involved the legal analysis of whether one of the exceptions set out in the Regulation to the requirement for disclosure is applicable. The unit also prepares OLAF's submissions in matters before the European Ombudsman.

Additionally, the unit has provided investigators with guidance about the implementation of Community law provisions. This year for instance, the unit has devoted resources to the preparation of the second edition of the OLAF manual, a memorandum of understanding with Eurojust and memoranda with other Commission services. Advice has also been provided to the Director General of the Office on the best use of existing legal bases for operations.

The unit has also worked on legal institutional matters, such as the protection of the independent status of the Office, which may have direct implications for the investigative activity. A significant example has been the setting-up of a Task Force in charge of the Eurostat case. The unit has also provided investigators with analyses of the effects of recent decisions of the European Court of Justice.

3. FOLLOW-UP ACTIVITY

3.1 Analysis of Follow-up Activity

OLAF distinguishes between administrative, financial and legislative follow-up on the one hand and disciplinary and judicial follow-up on the other hand. This activity also includes the key function of providing expert advice to operational staff both before and during the investigation stage.

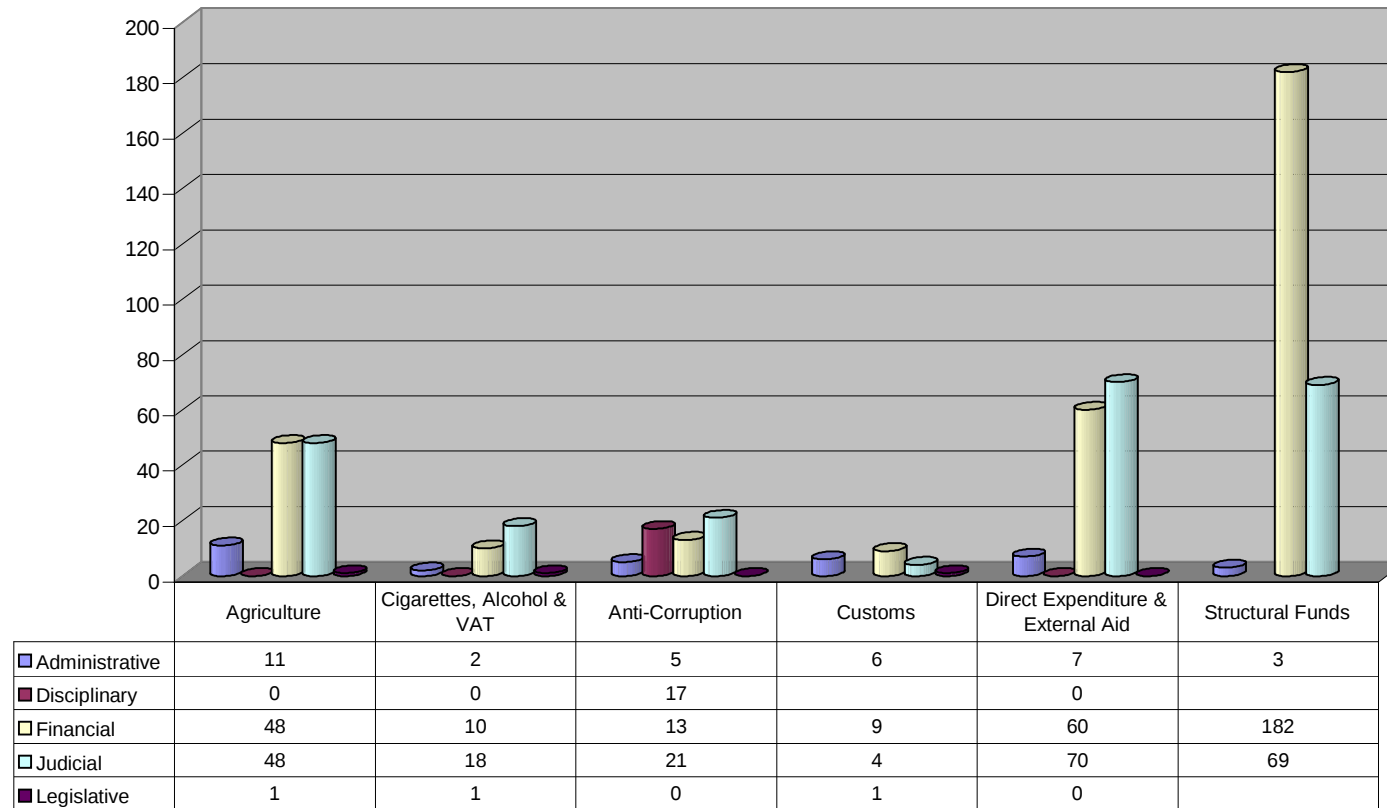
Figure 3.1 shows the increase in the number of follow-up cases during the reporting period by sector, as defined by the operational structure of Directorate B. While Structural Funds accounts for nearly half of the cases in follow-up, a significant increase in relative terms can be observed for all sectors, with peaks in Agriculture and Direct Expenditure and External Aid. Figure 3.2 shows the follow-up activities at the end of the reporting period by type of follow-up¹² and by sector.

Figure 3.1 Cases in follow-up by sector at start and end of the reporting period

Name	Number at 30/06/2002	Number at 30/06/2003	Percentage Increase
Agriculture	45	90	100%
Anti-Corruption	17	28	65%
Cigarettes, Alcohol & VAT	23	30	30%
Customs	12	20	67%
Direct Expenditure & External Aid	48	110	129%
Structural Funds	128	199	55%
<i>Total</i>	273	477	75%

¹² A given case can lead to several follow-up activities simultaneously, e.g. financial and judicial follow-up, or financial follow-up in several Member States. This explains the difference between the grand total of 606 follow-up activities (Figure 3.2), and the net number of 477 cases that are in follow-up at the end of the reporting period (Figure 3.1).

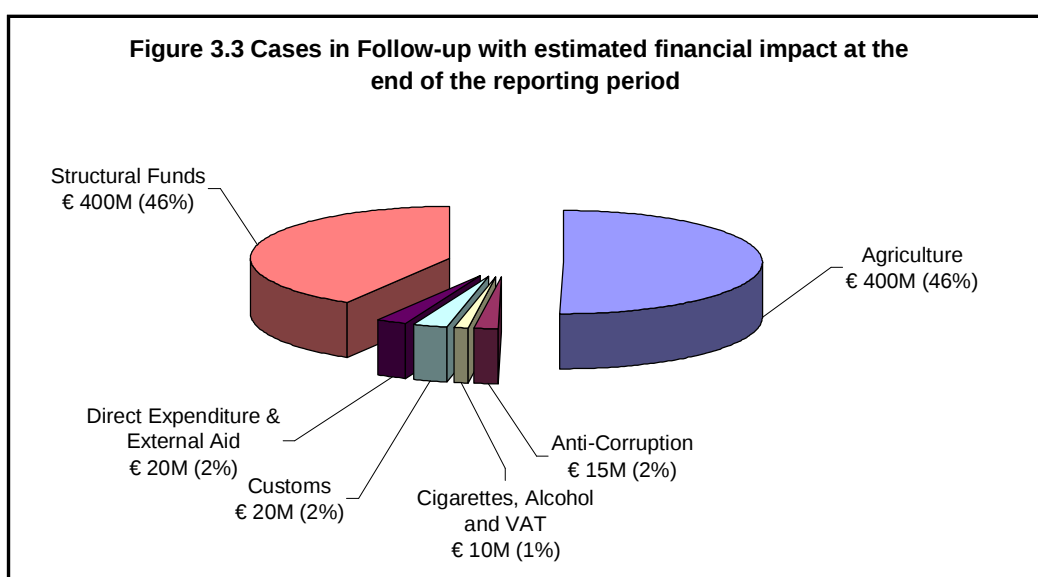
Figure 3.2 Follow-up activities by type and sector at the end of the reporting period



Most of the follow-up activities concern financial follow-up (322) and judicial follow-up (230). Administrative follow-up lags far behind (34). Seventeen disciplinary proceedings are under way. Legislative follow-up is still an exception with only 3 cases. The legislative follow-up of operational casework will inform the fraudproofing procedure, which OLAF manages as an increasingly important preventive tool in the Commission's legislative processes. Lessons learned from operational activity are always taken into account when framing proposals in the fraudproofing area.

About half of the sectors (Structural Funds, Trade, Anti-Corruption, Direct Expenditure and External Aid) account for the large majority of follow-up activities. There has however been a steep increase in follow-up activities emanating from internal investigations, from 17 last year to 56 follow-up actions, including 21 judicial cases, by the end of the reporting period.

The total financial impact estimated and established at the end of the investigations for all sectors amounts to more than € 850 million, as illustrated in Figure 3.3.



Financial recovery action is often, depending on the budget sector, performed by national authorities under national legislation. Several Member States may be involved in one case. Long term civil and/or criminal proceedings may also be underway. Legislation and the arrangements for its implementation may need to be formally clarified before the required practical steps can be taken.

3.2 Follow-Up: Own Resources

At the end of the reporting period there were 50 follow-up cases (including two of a “monitoring” nature). These covered the customs, alcohol, cigarettes and VA sectors, and involved administrative, financial and legislative follow-up. Financial recovery is the responsibility of the Member States. However, a new feature of financial follow-up processing which was implemented during this period enabled OLAF to approach Member States directly for progress reports on recovery action relating to OLAF investigation cases. DG BUDG is kept informed. Through its regular co-operation with DG BUDG, OLAF has secured valuable on-line access to the new Web-based version of the OWNRES (Own Resources) system for the notification by Member States of cases of fraud or irregularity and their related financial recovery situation. This important development will significantly enhance OLAF’s ability to perform the financial follow-up of these cases and will facilitate risk analysis productivity in the traditional Own Resources area.

Case Study

“Plywood from Estonia” is a typical Own Resources (Customs) financial follow-up case. In October 1998, acting on information provided by United Kingdom Customs and Excise, OLAF sent Mutual Assistance Message 52/98 to Member States, informing them about the possible false declaration of Estonia as the country of preferential origin for imports of plywood into the Community. It was suspected that the plywood was actually of Russian origin. Member States performed post-clearance checks on targeted consignments and the Estonian authorities provided assistance and support by verifying the origin certificates. This led to the identification of several infringing consignments and the recovery so far of € 121 972 in Austria, Denmark, Portugal, Sweden and the United Kingdom. OLAF is continuing its financial follow-up enquiries in Germany, Sweden and the United Kingdom in order to establish whether any further infringements have taken place.

Case Study

The “Shrimps from Surinam” case illustrates administrative follow-up action in the framework of the LOME IV Convention. In this case, there was a difference of interpretation between the authorities in Surinam and the Commission in determining the origin of the shrimps. OLAF supported DG TAXUD in the subsequent formal consultations within the ACP/EC Customs Co-operation Committee and the Joint ACP Ambassadors/EC Committee in order to ensure the withdrawal of the EUR1 certificates concerned and the correct application of the rules by the Surinam authorities.

3.3 Follow-Up: Indirect Expenditure

The financial management of expenditure in agriculture (EAGGF-Guarantee) and of Structural Actions (Structural Funds and Cohesion Fund) is shared, so that the initial responsibility for recovering funds wrongly paid out falls on the Member States. OLAF's financial follow-up activity consists of consulting with the responsible services in Member States and with other Commission services in order to ensure that such sums are recovered. This is without prejudice to possible improvements in legislation as a result of lessons learned (legislative follow-up) or to criminal prosecution for fraud (judicial follow-up).

OLAF performs the follow-up of cases which have been investigated by the Office, or where the Office has co-ordinated investigative action carried out by others. For the cases in the field of agricultural expenditure and structural actions OLAF monitors the financial follow-up carried out by the Member States concerned. For every irregularity OLAF verifies whether the Member State has informed the Commission in application of Community Regulations (595/91, 1681/94, 1831/94) and follows the evolution of the recovery actions by means of the quarterly communications. Irrecoverable amounts are dealt with by the application of the sectoral Community legislation concerned.

Case study

OLAF was asked by various Member States to verify Russian import documents presented by European traders to the competent paying agencies in the Member States in order to claim refunds on the export of beef destined for the Russian Federation. OLAF opened a co-ordination case and used the MIS, installed between OLAF and the Russian Federation, for exports of beef attracting export refunds. One Member State asked for verification of 85 import documents. The Russian customs authorities identified differences in the tariff headings declared in some examples and could not verify others, so were unable to confirm the clearance of the goods.

OLAF's follow-up unit is monitoring the reporting of the irregularity in the framework of Regulation 595/91 and the ongoing recovery procedure through contact with the paying agency. The case will be closed when the unduly paid amounts are completely recovered or when a final decision is taken on the financial responsibility for those amounts which are not entirely recovered.

OLAF has provided assistance to other Directorates-General in actions relating to the ECR database (Electronic Case Registry) which is used to store notifications by Member States of cases of fraud and irregularity (Regulations 595/91, 1681/94 and 1831/94). OLAF participates with DG AGRI in the Task Force established by the Commission to eliminate the large

backlog of accumulated agricultural (EAGGF-Guarantee) debts. OLAF co-operated with DG REGIO in the audits in all Member States to evaluate the national systems for the application of Regulations 1681/94 and 1831/94.

OLAF examined the closure statements for a total of 1696 programmes in the structural funds sector (operational programmes and direct projects 1994-1999) and co-ordinated with the relevant Commission services to make sure that amounts involving irregularities have been properly settled.

3.4 Follow-Up: Direct Expenditure

Follow-up in the field of direct expenditure and external aid concerns expenditure where implementation tasks are performed by Commission departments (as opposed to by the Member States) or delegated to third countries. The accumulated expertise and experience of the Office in recovery matters can be used in order to improve the fraud proofing of legislation, contract clauses and financial agreements with third countries. In addition, financial security action to secure the Community's financial interests can be taken effectively during the investigation phase.

Case study

In one case, which concerns potential over-claiming of costs within the framework of PHARE and OBNOVA (a series of Community programmes aimed at providing assistance to the countries of the Western Balkans) contracts, OLAF safeguarded the potential recovery by:

- participating in the definition of the scope of the audit carried out by the authorising DG;
- analysing the results of the audit report in terms of an evaluation of the discovered irregularities in relation to the potential damage and the legal basis for recovery;
- ensuring the timely relay of all relevant information relating to both the criminal prosecution and potential recovery elements to the national authorities, resulting in financial security being obtained from the suspect. In this way, the ultimate financial recovery was secured even before the Court proceedings started.

3.4.1 Searching for missing debtors

Early in 2003, the Commission asked OLAF to take on the responsibility for searching for missing debtors in the areas of direct expenditure, because of OLAF's particular skills and knowledge. OLAF established the latest known location of the parties concerned in 75% of the 35 requests received from several Commission services.

3.4.2 Civil party action within criminal proceedings

A new operational responsibility of the Office will be to perform the necessary action to enable the Commission to bring civil party action in criminal proceedings. In future, where an enforcement order has to be obtained before the competent national criminal court in any criminal proceedings concerning the protection of the Community's financial interests, the file will be managed by OLAF as part of the enforced recovery procedure.

4. ENLARGEMENT

4.1 Anti-Fraud Co-ordination Structures (AFCOS)

OLAF has reinforced its support to Acceding and Candidate Countries in their institutional preparation towards combating fraud against the financial interests of the enlarged Community. By early 2003, 12 countries had nominated a central AFCOS to act as co-ordinator for the implementation of legislative, administrative and operational preparation.

Following the first phase, the priority for the near future will be to make AFCOS fully operational both at administrative and operational levels. Experiences during the reporting period show that although the general capacity of AFCOS is still weak, the basic structures already exist in the majority of countries and there is a willingness to co-operate at all levels. Co-ordination and training meetings have been held in Brussels and elsewhere: in October 2002, an AFCOS Roundtable included the participation of all Acceding and Candidate Countries and they also participate as observers in COCOLAF (the Advisory Committee for the Co-ordination of the Fight against Fraud) meetings.

Particular attention has been given to training public prosecutors who will take on responsibility for anti-fraud work and to technical training in the use of the Anti-Fraud Information System (AFIS).

In Poland, the first phase of the specific PHARE financed anti-fraud project "Development of a horizontal anti-fraud structure" ended on 30 September 2002. Experts from Member States assisted by OLAF undertook 20 training seminars on anti-fraud topics for civil servants involved in the protection of the Funds and for law enforcement authorities. The Polish AFCOS also received specific assistance and equipment.

4.2 The Multi-Country PHARE Programme (MCP)

The Commission adopted this programme in May 2002, with a budget of € 15 million. It consists of three components: development of anti-fraud structures, communication links and anti-fraud databases, and transfer of operational know-how. OLAF, in co-operation with the beneficiary countries, is responsible for the definition and programming of the different activities covered by the Programme while DG ELARG undertakes the financial management and contracting.

A Needs Assessment for each country was undertaken between September 2002 and January 2003, resulting in a list of recommendations which were used as the basis of the MCP Activity Plan. This consists of more than 30

activities to provide technical assistance and training aimed at increasing the skills and operational capacity of civil servants and anti-fraud experts. These activities are implemented in close co-operation with DG ELARG using the Grant Scheme as a financing instrument. Considerable work has already been undertaken. It is envisaged that the first grant contracts with the beneficiary authorities will be signed by the end of September 2003.

OLAF has welcomed a regular flow of visitors from these countries through its programme of visits from external organisations and institutions. In November 2002, the Hungarian AFCOS was received in OLAF for two days to gain a better insight into the workings of the Office and the Commission. Similar visits for at least three of the remaining AFCOS are planned for 2003.

4.3 Expanding communication and information strategy to Candidate Countries

The OLAF Anti-fraud Communicators Network (OAFCN) meeting on 26-27 March 2003 centred on two main themes:

- The need to inform public opinion in the Candidate Countries about criminal activity affecting European public finances and the adverse implications for taxpayers.
- The development of closer co-operation between OLAF and the national services and among the national services to exploit information and communication in fraud prevention.

5. CO-OPERATION WITH OLAF'S PARTNERS IN THE FIGHT AGAINST FRAUD

5.1 Consultation with the Member States

During this period, COCOLAF and its working party, Group Article 280, met 7 times with delegates from the Member States. Both contributed to the Annual Report on the Protection of the EC's financial interests under Article 280(5) EC¹³.

The Committee debated a number of general issues relating to the protection of financial interests and the fight against fraud. Several topics were discussed in depth, including the system for the notification of fraud and other irregularities (AFIS).

5.2 Reporting under Article 280 of the EC Treaty

As noted in the Commission's Annual Report for 2001, certain Community initiatives for the protection of the Community's financial interests have an impact on OLAF's operational activity. In October 2002, the 1995 Convention and two of its Protocols entered into force after being ratified by all Member States. This means that fraud and corruption must now be treated as autonomous criminal offences throughout the Union. This is a major step in reinforcing the criminal dimension for the protection of financial interests and the fight against fraud. Similar measures for money laundering in relation to fraudulent behaviour in this domain still await the ratification of the Second Protocol.

The proposed European Public Prosecutor who would take charge of co-ordinating investigations and prosecution of offences against EC financial interests is a key initiative in order to remedy the adverse consequences of the fragmentation of criminal law and judicial systems in the Union for the protection of EC interests. OLAF considers that the European Public Prosecutor would help further its investigations and the necessary co-ordination with national police and judicial authorities. In 2002/2003, the wider debate, and especially the Public Hearing organised in September 2002, confirmed wide support for the proposal, especially from the European Parliament, experts and representatives of civil society. The project was retained within the Convention on the Future of Europe and it is now for the Intergovernmental Conference (IGC) to decide whether the proposal should be inserted in the future Constitutional treaty.

¹³ Report 2001 adopted on 02.07.2002, COM (2002) 348 final, and Report 2002 adopted on 23.07.2003, COM (2003) 0445 final.

5.3 Co-operation with bodies in charge of police and judicial co-operation

The Commission and Europol signed an administrative agreement on 18 February 2003 establishing a framework for co-operation in their respective competencies. An administrative arrangement is due to be signed between OLAF and Europol by autumn 2003, to enable co-operation in the fields of information exchange at a strategic and technical level (using non-personal data), to appoint contact points and to hold meetings in areas of mutual interest. This is intended to add value in areas of European risk assessment, operational analyses and in the setting up of joint investigation teams and the use of technical support.

In the area of judicial co-operation, OLAF and Eurojust signed a memorandum of understanding (MoU) on 14 April 2003, which clarifies the respective roles of OLAF's Judicial Advice Unit and the members of Eurojust in the context of judicial follow-up of OLAF's investigations. The MoU foresees the practical arrangements for co-operation and the exchange of information between Eurojust and OLAF. It enables the two services to inform each other, without delay, of any information that concerns the other. It establishes contact points, and sets out to facilitate the participation of the two services in joint investigation teams. These arrangements have established the basis for practical co-operation which OLAF values greatly. OLAF and Eurojust will continue to look at ways of improving this co-operation.

5.4 4th Conference of International Investigators

In April 2003 the 4th Conference of International Investigators took place in Brussels. This annual conference is held for anti-fraud and anti-corruption investigators from United Nations organisations and multilateral financial institutions. The United Nations Office of Internal Oversight Services (New York, September 1999), the World Food Programme (Rome, June 2000) and the World Bank (Washington, March 2002) hosted previous conferences. This year OLAF was invited to host the Conference, bringing together the major investigative bodies attached to international and regional agencies and donors involved in providing humanitarian and other aid.

The central theme of the two-day meeting was "Co-operation as a tool in the fight against fraud and corruption". The aims were to improve co-operation among the various agencies and to establish good investigative practices. Some 80 representatives from over 30 organisations, including the World Bank and the United Nations, participated in the conference.

A joint United Nations/OLAF presentation highlighted the close co-operation between the two organisations in the Kosovo case described in Chapter 1. The World Bank, the United Nations and OLAF made a number of other presentations based on the operational activities and structures of each organisation.

A proposal setting out 'Uniform Guidelines for Investigations' is expected to be adopted by the organisations that attended the conference. These guidelines

aim to improve effectiveness of investigations in an open, transparent and accountable manner and thereby ensure both the protection of fundamental rights and the interests of those organisations. The standards will also act as an international benchmark for the investigative agencies adopting them.

The conference concluded that:

- In light of the increase in multi-agency funding of many projects, enhanced operational co-operation and mechanisms between the investigating agencies is necessary.
- Further consideration would be given to identifying how the larger organisations could assist smaller agencies in combating fraud and corruption.
- Preparations should be made for preparing a Library of Best Practices for international investigations.

5.5 Protection of the Euro

OLAF continued to exercise its co-ordination role under the Commission's authority in relation to the protection of the Euro against counterfeiting. This co-ordination is mainly carried out through the counterfeiting experts' group of COCOLAF which brings together Member States' experts from national law-enforcement agencies, legal affairs and finance departments, as well as central banks. Europol, the ECB and other international institutions also participate.

During the reporting period OLAF implemented the 'Pericles' exchange, assistance and training programme, where nine projects were financed or co-financed, for a total grant amount of € 627 000. These projects, initiated by OLAF or by Member States, were carried out together with the participation of experts from Member States, Acceding Countries, OLAF, the ECB and Europol.

OLAF continued to monitor the implementation, by Member States, of the legislation concerning the protection of the Euro and prepared reports¹⁴ as appropriate. In addition, the Commission adopted, on 17 July 2003, a proposal for a Council decision concerning the analysis and co-operation with regard to counterfeit euro coins¹⁵. This aims mainly at establishing the European Technical and Scientific Centre (ETSC) on a permanent basis within OLAF, by assigning the relevant responsibility to the Commission. On 18 March 2003, the ETSC produced its report for the year 2002 highlighting that more than 70 000 counterfeits were seized in 2002 and that two illegal workshops

¹⁴ Includes the Commission Recommendation, on 19 August 2002, concerning medals and tokens similar to the euro coins (OJ L 225, 22.8.2002, p. 34); and the preparation of the Commission's second report on the implementation of the Council framework decision on the protection of the euro with criminal penalties, subsequently adopted on 3 September 2003;

¹⁵ COM (2003) 426 final

were dismantled. In addition, over 2 300 counterfeit coins were found in circulation.

5.6 External training

The Office's external training activities reflect its overall priorities. During the reporting period, OLAF helped organise and/or co-financed 15 seminars involving almost 1,000 participants. These events primarily related to: preparing Acceding Countries with anti-fraud structures and technical assistance; the Green Paper on criminal law protection of the Community's financial interests and the creation of a European Public Prosecutor; counterfeiting of the Euro; information and communication as a means of fraud prevention; and anti-corruption issues.

5.7 Other External contacts

5.7.1 Information and Communication as a means of fraud prevention

OLAF supports its operational independence with its own information and communication strategy. The objective of this strategy is to satisfy the right of the citizen to know about what is being done to protect their interests. This must be balanced with the obligation to protect investigations and to respect the fundamental rights of the suspect, within the constraints prescribed by international, Community and national law.

The fight against fraud requires full co-operation and the exploitation of all relevant skills both within OLAF and its operational partners in the Member States. This includes employing effective communication strategies¹⁶ to publicise the work that is being carried out within Europe to prevent and combat fraud and corruption.

During the reporting period, OLAF reinforced the activities of the OLAF Anti-fraud Communicators Network (OAFCN), which brings together press and public relations officers from national law enforcement partners. The main aim of the Network is to improve the level and quality of information for the European citizen on the protection of the Community's financial interests. The Network was expanded to 40 members this year to include the Acceding and Candidate Countries.

During the reporting period there were approximately 1500 contacts with the media. This included press briefings, written and oral replies to press questions, referrals to members of the OLAF Anti-fraud Communicators' Network (OAFCN) and assistance to Commissioners' Spokespersons. Additionally the Office published 28 press releases and produced videos, brochures and leaflets.

¹⁶ In line with the Communications from the Commission on "A New Framework for Co-operation on Activities concerning the Information and Communication Policy of the European Union", dated 26 June 2001 and "An Information and Communication Strategy for the European Union" dated 2 July 2002.

5.7.2 Public relations

The area of public relations encompasses visits to OLAF, the provision of OLAF participants for events, particularly training events, which are neither financed nor organised by OLAF and the response to 160 general information requests from the public. There were some 50 group visits to the Office, involving some 700 persons in total, mainly from customs, investigation services and public prosecutors from Member States and other countries. Additionally, high-level delegations were welcomed to the Office from a variety of public offices, including:

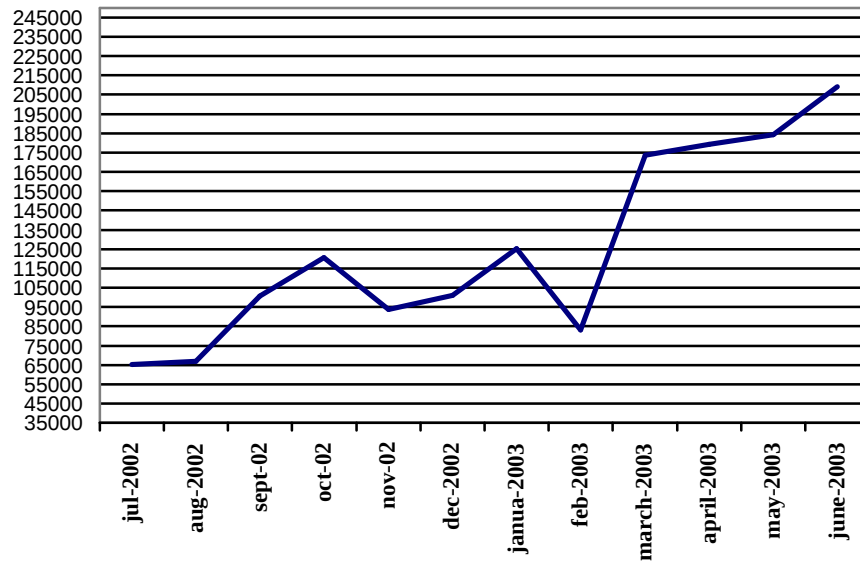
The State Duma of the Russian Federation
The Ministry of Justice of North Rhine Westphalia
The Italian Superior Council of Magistrates
The West Finland Alliance
The Budget Committee of the Bavarian Parliament
The Public Accounts Committee of the Danish Parliament
The Commanding General of the Guardia di Finanza, Italy
The Law Officers of Scotland

OLAF participated in 106 anti-fraud training actions which were organised externally.

5.7.3 OLAF Website

The OLAF Website was redesigned in 2002 as a basic tool of the communication and information policy of the Office. Since then, the number of visits or hits has steadily increased from approximately 65 000 hits in July 2002 to more than 210 000 hits in June 2003. Figure 5.1 shows the monthly hits for the whole reporting period.

Figure 5.1 Monthly hits on the OLAF Website for the reporting year



6. ADMINISTRATION

6.1 Human Resources

Over the reporting period, 13 individuals left OLAF and 59 joined. On 1 June 2003, OLAF employed 262 members of staff compared to 216 twelve months earlier. A further 70 persons are employed as external staff (national experts, auxiliaries and “intra muros” contractors). This has brought office space to saturation point with short-term trainees obliged to use desks situated in corridors.

OLAF has continued to follow its planned recruitment policy. In particular, OLAF organised a selection procedure in June 2002 to recruit temporary agents in the areas of intelligence, investigations and project management to fill 34 posts in category B. In total, 72 individuals were short listed and 20 were in post by 1 June 2003. A further 12 individuals should be recruited shortly.

The nomination of 3 Heads of Unit and 2 Advisers has strengthened the organisational structure in important sectors: Operational Intelligence, Investigations, Anti-fraud legislation and financial and administrative follow-up.

6.2 Budget

The new Financial Regulation permits greater decentralisation and delegation of authority for the management of financial transactions. OLAF has partially implemented such decentralisation. Thanks to improvements in budgetary tools, management and controls, particularly as regards salaries, missions and external contracts, 97.4% of the budget was used as planned in 2002.