

# COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(92) 943 final

Brussels, 26 May 1992

## THE FIGHT AGAINST FRAUD Report on work done and progress achieved in 1991

(presented by the Commission)

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**STRUCTURE OF REPORT**

**INTRODUCTION**

**Title I**            Main activities

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Chapter 3            Structural Funds

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## INTRODUCTION

### Background and aims

Over the years, the sound management of Community finances has assumed increasing importance. The continuing concern over fraud against the Community budget has fuelled determination to implement practical financial reforms, as demonstrated by the Decisions of 24 June 1988 on the system of own resources and the tightening of budgetary discipline,<sup>1</sup> the organization of a number of seminars (including one on the legal protection of the Community's financial interests),<sup>2</sup> the appointment of groups of experts, the various studies undertaken, and the creation of the Unit for the Coordination of Fraud Prevention (which is part of the Secretariat-General and comes under the direct authority of the President).

A 45-point work programme was drawn up in 1989 by the Commission, with full backing from the Council and Parliament; progress is regularly monitored and objectives kept under close review. The last few years have seen some major improvements in legislation and in resource allocation. The number of investigations, controls and other measures has increased, and there is no sign of budgetary support faltering which suggests the subject is still high on the political agenda.

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1 Council Decisions of 24 June 1988 on the system of the Communities' own resources (88/376/EEC, Euratom) and concerning budgetary discipline (88/377/EEC) OJ L 185, 15.7.1988, p. 24-29.

2 27-29 November 1989.

Developments in 1991 and outlook

On 8 July 1991, the Council took note of the second report presented by the Commission<sup>1</sup> and welcomed the progress that had been made in such areas as the simplification of agricultural legislation, the rationalization of the export refunds nomenclature, the notification by Member States of cases of fraud, and in the area of control generally. The Council demonstrated its determination to pursue its campaign against fraud by identifying six priority areas for 1991: the continued simplification of agricultural legislation and review of the export refunds nomenclature; the Community customs code; information on measures to prevent fraud in the financial statements accompanying proposals; cooperation between the Commission and Member States; scope of the Commission's action programme; adequate resources for investigations in non-member countries and the negotiation of complementary mutual assistance agreements.

On 23 and 24 April 1991 Parliament's Committee on Budgetary Control welcomed the publication of the second report and requested the Commission to reply in writing to questions put by MEPs. The list of 36 written questions sent to the Commission urged it to pursue its efforts to recover sums due whenever it was notified of fraud or irregularity, to concentrate on those sectors in which the most serious abuses occurred, and to ensure that the Unit for the Coordination of Fraud Prevention enjoyed unequivocal support "at all levels and at all times".

In 1991, considerable progress was made in carrying out the work programme and in the area of investigations listed below:

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1 The Fight Against Fraud: report on work done and progress achieved in 1990 (SEC(91) 456 final, 20.3.1991).

- The Lachaux group continued its work on simplifying agricultural legislation:
  - . adoption on 3 May 1991 of Regulation (EEC) No 1157/91 (butter for pastry products) which took into account the group's previous work;
  - . proposals concerning refunds for the use of starch and the compensatory premium for sheepmeat; review of the export refunds nomenclature for agricultural products; proposal for the petfood sector; proposal concerning the T5 control copy;
- Progress on horizontal agricultural legislation:
  - . adoption of new regulations on reinforcing the monitoring of expenditure (Regulation (EEC) Nos 307/91 and 595/91);
  - . practical matters concerning the implementation of regulations already adopted.
- Progress on the procedure for adopting a customs code and in the area of Community transit.
- new outlook for control: remote sensing.
- guidelines on indirect taxation.
- Progress on cooperation with non-member countries (EFTA countries; Andorra; Faroe Islands; Poland, Hungary and Czechoslovakia).
- Finalization of various studies.
- Renewed emphasis on the protection of the Community's financial interests.

- Increased use of computers and continued attention to training.
- Further investigations and controls carried out in Member States and some non-member countries.

The priority given to fraud prevention in 1990 was again evident in the 1991 budget. Moreover, this priority is maintained in the 1992 budget.

The Commission's partners are increasingly aware of the importance of fraud prevention and are anxious to ensure that the Community's financial interests are protected. The Commission is now looking beyond 1992 and, in its continued efforts to prevent fraud, will cooperate as closely as possible with its partners, and inform them of all its findings.

Finally, at the express request of Parliament during the debate on the discharge for 1990, this report contains the organization charts of the various anti-fraud departments in the Commission.<sup>1</sup>

#### TITLE I - MAIN ACTIVITIES IN 1991

The purpose of this title is to describe, from the fraud prevention angle, the situation concerning own resources, the Customs Union, the EAGGF Guarantee Section and the structural Funds, particular attention being paid to investigations.

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<sup>1</sup> Annex 7.

## Chapter 1 - Own resources and customs union

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The system for financing the Community budget as laid down in the Council Decision of 24 June 1988<sup>1</sup> stipulates that the budget, without prejudice to other revenue, is financed by the Community's own resources, i.e. the agricultural levies and other amounts, customs duties, the application of a uniform rate to the VAT assessment base and a contribution based on each Member State's GNP. The Council laid down the practical arrangements for operating the system in Regulations (EEC, Euratom) No 1552/89 and No 1553/89.<sup>2</sup>

At the budgetary level, action to carry out the final stage of the internal market must also involve effective protection for the Community's finances, especially as regards the collection of its own resources.

Following on from the last few years, in 1991 special attention was paid to the question of the Community's revenue.

### 1. Own resources

#### 1.1. Traditional own resources (customs duties, agricultural levies)

Pursuant to Regulation (EEC, Euratom) No 1552/89, which lays down the practical arrangements for establishing, entering in the accounts and making available own resources, relations between the Member States and the Commission as regards control follow three main lines:

- the Commission is kept informed, pursuant to Article 6(3);

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1 Council Decision of 24 June 1988 cited above, on the system of the Communities' own resources (88/376/EEC, Euratom).

2 Council Regulations (EEC, Euratom) published in OJ L 155, 7.6.89: No 1552/89 implementing Decision 88/376/EEC, Euratom and No 1553/89 on the definitive arrangements for the collection of own resources accruing from value added tax.

- separate accounts are kept, pursuant to Articles 6(2(b)) and 8;
  - on-the-spot checks are carried out, pursuant to Article 18(2) and (3).
- These three facets were examined in depth at the seminar on the innovative aspects of Regulation (EEC, Euratom) No 1552/89<sup>1</sup> held in Brussels on 19 and 20 February 1991.

### 1.1.1 Informing the Commission

The Member States' half-yearly notifications to the Commission of cases of fraud and irregularities involving amounts of over ECU 10 000 break down as follows, for the period from 1 July 1990 to 31 June 1991:<sup>2</sup>

Member State	2nd half 1990		1st half 1991		Totals	
	Cases	ECU m	Cases	ECU m	Cases	ECU m
B	30	1.63	41	2.35	71	3.98
D	56	9.83	40	3.32	96	13.15
DK	9	0.56	4	0.08	13	0.64
EL	3	0.10	2	0.04	5	0.14
ES	14	0.78	18	0.40	32	1.18
F	47	7.00	103	6.54	150	13.54
IRL	1	0.01	-	-	1	0.01
I	12	12.83	8	0.24	20	13.07
L	-	-	1	0.04	1	0.04
NL	1	0.15	9	0.27	10	0.14
P	6	0.08	4	0.06	10	0.14
UK	82	5.75	125	7.30	207	13.05
	261	38.72	355	20.64	616	59.36

The total of some ECU 59 million includes sums already recovered and those for which recovery procedures are still under way in the Member States.

1 See Chapter 2(2.1), Title II.

2 As updated to 30 January 1992, excluding any statements from Member States not received by the Commission at that date.

If there were fuller cooperation from the national administrations as regards notification, conclusions could be drawn as to risk areas and the methods for carrying out fraud which were the most widespread or had the greatest financial implications. As it is, although progress has been made, the disparity in the numbers of cases reported by the Member States suggests that notifications could be further improved.

Furthermore, the annual reports on the establishment and entry in the accounts of own resources<sup>1</sup> and the half-yearly reports on the outcome of national inspections and the most important problems arising, particularly matters in dispute,<sup>2</sup> should in future be more uniform in content and should be sent to the Commission at the proper intervals. Two points, nevertheless, arise out of the annual reports for 1980:

- infringements to a large extent involve false declarations as to type and value, or indeed origin, and undeclared imports;
- the goods in question mainly fall within section XVI (electrical equipment, sound or picture recording or reproduction equipment) and sections I to IV (animal and vegetable products, animal and vegetable oils and fats, food industry products) of the Common Customs Tariff.

#### 1.1.2 Separate accounts

The object of keeping separate sets of accounts, an innovation introduced in 1980, is to enable the Commission to keep track of the recovery of own resources.

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1 Article 7 of Regulation (EEC, Euratom) No 1552/89.

2 Article 17(3) of Regulation (EEC, Euratom) No 1552/89.

From the practical point of view there are a number of comments to be made about the implementation of separate accounts. These comments have arisen at meetings of the Advisory Committee on Own Resources.

- There are necessary links between the A and B accounts. Duties identified as payable but not collected, which have been entered in the B account, are, following actual payment, entered as receipts in the A account, except in two instances where the B account can be cleared otherwise; duly substantiated adjustment and duly substantiated decision to waive collection, the latter being allowed only in the event of force majeure or where it has proved definitely impossible for the Member State to collect amounts for reasons which cannot be attributed to the national administration responsible.
- All or part of amounts due which relate to fraud or irregularities are entered straight in the A account if the person liable pays them at once, but all of them or the balance is entered in the B account if the person liable does not pay at once or only pays part.

The findings of the inspections carried out by the Commission in the Member States into the implementation of the separate accounting arrangements are being analysed. Regardless of whatever conclusions are reached, it should be noted that in future the summary statements of B accounts sent in by the Member States must as a matter of course:

- (1) be consonant with previous statements;
- (2) be sent in by the statutory deadlines.

### 1.1.3 On-the-spot inspections

The inspection measures by the Commission laid down in Regulation (EEC, Euratom) No 1552/89<sup>1</sup> are of two kinds:

- (1) inspection measures for which it is associated with the Member States, at its request;
- (2) on-the-spot inspections on its own initiative.

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1 See above.

These two types of inspection are designed to achieve different ends: in parallel with inspections carried out in association, the basic object of which is to supply the Commission with information about the collection of own resources by the Member States in accordance with their national arrangements, the purpose of the on-the-spot inspections measures is to provide the Commission with a means of resolving problems arising out of the application of the regulations on own resources, which encompass action to combat fraud.<sup>1</sup>

The first on-the-spot inspections carried out involved inward processing, goods sent by post, imports of fishery products and the establishment and entry in the accounts of amounts arising in respect of fraud and irregularities. The most recent such inspections focused on the separate accounting arrangements.

#### 1.2 VAT own resources

Under Article 12 of Regulation (EEC, Euratom) No 1553/89,<sup>2</sup> the Commission is required to consider the procedures applied for determining and collecting VAT and the national VAT systems' inspection procedures and to submit a report to Parliament and the Council every three years; the first of these is to cover the 1989-91 period.

The aim of this is clearly set out: it is to analyse how effective the national systems are. As collecting and administering VAT is the responsibility of the Member States, it is vital to ensure that the

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1 Cf. the declaration re Article 18(3) entered in the Council minutes of 29 May 1989 at the Commission's request, the first paragraph of which reads: "Conscious as it is of the greater role it will henceforth have to play in combatting fraud, the Commission states that it will have recourse to the inspections provided for in this paragraph while respecting the powers to be exercised by the Member States as regards the prevention and deterrence of fraud and irregularities relating to traditional own resources."

2 See above.

Community's finances are not diminished through revenue being undervalued as a result of underestimating the level of tax fraud.

With prompting from Commission departments, all the Member States answered their questionnaires properly and there was a high degree of cooperation.

The report falls into three main parts:

- examination of the features of national VAT systems with a review of difficulties in collecting and administering VAT;
- examination of steps taken by the Member States to overcome these difficulties;
- suggestions by the Commission, after consulting the Member States, of ways of making the national systems more effective.

In the first part, certain differences between the Member States came to light as regards the treatment of taxable persons and the way the administrations in charge of VAT matters were organized. The problems which arose include the following.

- . As regards taxpayers' willingness to comply with formalities of their own accord: the complexity of and frequent changes in the structure of VAT, and the problem of taxable persons' perception of departmental fairness and efficiency in enforcing compliance with VAT law;
- . As regards enforcement : slowness and inaccuracies in processing data relating to registration, declaration or associated payment, owing in particular to computerization or human resources problems, and the division of tax departments into separate compartments.

The second part has the merit of highlighting recent progress in making certain procedures more effective. There has been progress in:

- . encouraging compliance with requirements;
- . making optimum use of resources (computerization; human resources);
- . making optimum use of VAT administration procedures;
- . interdepartmental coordination within Member States and inside the Community
- . sanctions and means of redress.

The Commission's suggestions centre on a number of measures to do with compliance and enforcement, particularly in cases of fraudulent dealing, as well as with the computerization, reorganization and rationalization of procedures by strengthening local structures, and staff training. These measures arose out of the developments observed following examination of the two areas covered by the report mentioned above.

The Commission will monitor progress in carrying out improvements and make contributions to it in the form of exchanges of information and training schemes.

## **2. Mutual assistance and administrative cooperation**

### **2.1. Fine-tuning mutual assistance**

Progress over the last few years has been encouraging, whether it be in notifications pursuant to Regulations (EEC) No 616/78 and No 1466/91, in terms of quantity and quality, fruitful developments in carrying out investigations, training and the holding of seminars or the expansion of the SCENT computerized system for information exchange.

At a meeting in October 1991 the heads of the Member States' customs services said they would welcome further moves in this direction.

Generally speaking, as the Commission pointed out in its communication to the Council, Parliament and the Economic and Social Committee on the customs union in the context of the single market,<sup>1</sup> administrative cooperation, particularly in combating fraud, is one of the priorities for the customs union as 1993 approaches.

It is one of the factors which contribute to the proper implementation of the common policies in trade with non-Community countries and safeguard the Community's financial interests. It makes for fair practice in trade against a background of healthy competition.

In 1991 action taken to stimulate further progress in this direction included exchanges within the framework of the Mattheaus programme, the drafting of cooperation agreements with non-Community countries and the expansion of SCENT.<sup>2</sup>

On this last point, there is interaction with the work being done in the context of the Customs Information System, a computerized system which builds on SCENT to strengthen the Community's external frontiers in relation to harmful products such as drugs and arms which are not at the moment within the Community's sphere of jurisdiction. The existence of these networks is fundamental to the removal of internal frontiers.

In the wider Europe, a number of EFTA countries are also apparently interested in joining SCENT, though the practicalities have yet to be worked out.

Other measures which have been proposed are more innovative in character. In that sense changes might be made to certain aspects of Regulation (EEC) No 1468/81, though without changing the broad outlines.

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1 COM(90) 572 final, 31 January 1991.

2 See Chapter 2(3) in Title II.

In 1991 the Commission sent out 109 notifications, including 69 new cases and 40 additional notifications. Of these, 84 related to own resources.

Mem. St. Commis.	B	D	DK	EL	ES	F	IRL	I	L	NL	P	UK	Commis-sion	TOTAL
No of cases in all	7	12	2	2	12	14	-	-	1	4	-	11	44	109
Own re-sources cases	5	12	1	2	2	11	-	-	1	3	-	10	37	84

When the Community rules first started to be applied, notifications related to isolated cases of fraud reported after national investigations had been carried out. They now tend to cover a whole sector of trade with one or more non-Community countries and are more often circulated when suspicion first arises. These two factors combined make for economies of scale in preliminary research into matters of fact and enable coordinated action to be taken against fraud. In that sense notifications have become an instrument in the day-to-day work of enhancing the effectiveness of controls on the external frontiers and contribute in their field to the establishment of the internal market.

The range of products to which notifications relate has expanded considerably to encompass every section of the customs tariff involving duties.

As regards regulations, there are now more cases involving anti-dumping duties and the different preferential origin systems.

## 2.2 Further action in cases involving mutual assistance<sup>1</sup>

The cases cited at 2.2.1. and 2.2.2. all refer to investigations in non-Community countries. Such missions take place, following case-by-case negotiations with the country concerned where there is no specific agreement on assistance, only where investigations in the Community fail to produce the requisite evidence of fraud. At a cost in budget terms of less than ecu 300 000, these missions have led to the identification of ecu 41,410 million of own resources in 1991.

### 2.2.1 Further action in old cases

#### Agricultural and fishery products

##### . Yugoslav maize

The following action was taken in Greece pursuant to the Court's Judgment in Case 68/88:

- the traders involved and several civil servants were given prison terms, suspended in some cases, for concealment of fraud;
- the traders involved and several civil servants were given prison terms, suspended in some cases, and fined a total of ECU 1 752 136 for the actual fraud.

##### . Beef from Brazil

The investigation uncovered evidence that false declarations of the type of meat (offal) had been drawn up to evade payment of levies. The exact amount to be recovered is being calculated on the basis of additional documents which the Brazilian authorities have undertaken to supply to the Commission.

##### . Guyana rice

Investigations showed that rice from various non-Community countries

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1 See Annex 1.

(Thailand, the United States, Argentina and Uruguay) had been imported into several Member States under false Guyanese declarations of origin involving the presentation of EUR 1 certificates which had been either falsified or improperly obtained.

The own resources evaded are estimated, as investigations stand at present, to come to ECU 4 500 000.

. **Origin of preserved fish imported from Mauritius**

Fishery products from the ACP countries are entitled to preferential origin treatment only if certain conditions are complied with; these relate to the vessels used and are designed to ensure that partner countries remain in control of the operations. In the case in point it was discovered that not all the conditions had been met, at least up to July 1991. The duties payable for the preceding period come to between ECU 5 and 7 million. Mauritius, however, placed a different interpretation on the findings; this will have to be considered by the relevant cooperation committee as laid down in the Lomé Convention.

. **Origin and value of peeled shrimps and salt fish imported from Greenland**

In 1990 this investigation established that there had been partial use of raw materials from non-Community countries to obtain products imported under the preferential treatment arrangements allowed to overseas countries and territories, and that certain imports had been undervalued. The two Member States which took part in the investigations (Denmark and Portugal) recovered evaded amounts of approximately ECU 750 000.

. **Preferential origin of other fishery products (Gambia, Sierra Leone and Las Palmas)**

Operations in the Member States have reached the recovery and prosecution stage. One Member State has reported recovering ECU 88 500 and has instituted proceedings against seven other importers.

## Textiles

### . Preferential origin of clothing imported from Mauritius

Inquiries carried out with the help of two Member States (France and the United Kingdom) in 1989 and 1990 established that certificates of preferential ACP origin had been submitted in respect of clothing that had been either manufactured in a non-Community country or made up in Mauritius with cloth from non-Community countries.

Because of the large number of importers concerned, the outcome of action to recover dues by the Member States (Germany, Belgium, France, Italy, the Netherlands and the United Kingdom) has not yet been established. To date the Commission has been notified by one Member State that ECU 73 500 has been recovered.

Another Member State said that it was instituting legal proceedings to recover ECU 42 500.

### . Other textile products

Investigations in Asia have produced the results set out at 2.2.2.

## Industrial products

### . Potassium permanganate and videocassettes in Hong Kong and the People's Republic of China

#### (1) Potassium permanganate

Following coordinated investigations in several Member States into the evasion of anti-dumping measures relating to this product, approximately ECU 2.2 million has so far been recovered in duties and financial penalties. All the fraud networks identified in the investigations have been dismantled.

**(2) Videocassettes**

ECU 215 000 in duty has been recovered. The results of investigations establishing the non-preferential origin of the imported products have been confirmed by the exporting country. Renewed recovery procedures in respect of more than ECU 1.5 million are under way. Operations continue.

**. Origin of electric motors in Malta**

The investigation showed that a false declaration of origin was made with a view to evading anti-dumping measures. Following recovery measures by the Member States concerned (Germany, Denmark, France and Italy), ECU 350 000 was recovered.

**2.2.2 New cases**

**Agricultural and fishery products**

**. Preferential origin of shrimps imported from the Faeroe Islands**

The object of this investigation, which was carried out with the help of two Member States in September 1991, was to check on the circumstances in which whole or peeled shrimps exported from the Faeroes under EUR 1 certificates had been caught and worked. It was found that the goods were not all entitled to preferential treatment owing to the status of the fishing vessels concerned or because raw materials from non-Community countries had been used.

The importing Member States were asked to take action to collect the sums due on the basis of the documents collected and on the grounds that the EUR 1 certificates were invalid. Customs duties on the overall value of the consignments of non-Community origin come to an estimated ECU 10.5 million. The exact amount cannot be calculated until the final destination of the goods has been verified, some of them having been re-exported to non-Community countries.

. Preferential origin and type of preserved fish in Thailand

The mission carried out in September 1991 with officials from the Member States most closely involved established that the type of fish declared was not available in Thailand and that the fish actually used were themselves imported. As investigations stand at present, evaded amounts are assessed at approximately ECU 10 million. The Thai authorities have been asked to withdraw the preferential origin certificates in question.

. Preferential origin of preserved fish in the Solomon Islands, Fiji and Côte d'Ivoire

To supplement the investigations carried out in the Member States and by the Commission, missions involving national officials were sent to the three countries concerned in May, June, November and December 1991. Depending on the country concerned, the false declarations of origin discovered related to the use of raw materials previously imported from non-Community countries, to catches by vessels which did not meet the conditions for preferential origin, or to a combination of the two.

In view of the overall value of the consignments covered by the EUR 1 certificates concerned, the duties involved in these cases are estimated at present to be ECU 710 000, ECU 0,2 million and ECU 17 million respectively.

Textiles

. Preferential origin of textiles and clothing in Yugoslavia

Following suspicions arising from investigations carried out by several national customs departments into the validity of EUR 1 certificates issued in Yugoslavia, a delegation of representatives of the Commission and the Member States chiefly concerned took part in on-the-spot inquiries in May 1991.

It was established that, of 700 consignments, over 400 were of non-preferential origin as raw materials from non-Community countries had been used. The Member States are now taking further steps to recover the evaded duties, which are estimated at more than ECU 2 million.

. **Preferential origin and evasion of import quotas in South Africa, the Ciskei and Lesotho**

Processing of the findings of investigations into Asian textiles in 1990 has led to the identification of new fraud networks. The false declarations of origin discovered during a fresh mission carried out with the help of four Member States in October 1991 were used to evade import quotas and to obtain the preferential treatment given to the ACP countries when there was no such entitlement. The overall value of the goods concerned is estimated at ECU 20 million, giving duties of some ECU 1 million.

**2.2.3. Other results (1991 notifications)**

. **Maize**

Maize from a non-Community country (the United States) was imported into Spain with payment of a reduced levy owing to the accession arrangements; re-export to another Member State is allowed only on payment of duties at the normal rate.

It was found on investigation that there were several cases of re-exportation without payment of the requisite duties, and the Member State in question recovered ECU 1 500 000 in own resources due.

. **Fraudulent imports of live cattle**

Following preliminary discoveries by the national administrations in Belgium, France and the Netherlands from September 1990 onwards, several fraud networks were detected in 1991. Administrative and legal inquiries are still under way in a number of Member States, with the Commission coordinating information and action.

It was established that two types of fraud had taken place:

- Livestock which was supposed to be sent through the Community in transit on its way to other, non-Community countries had been withdrawn from that arrangement and the external transit (T1) papers had been discharged with counterfeit stamps or not discharged at all. In some cases, so that the goods would be granted Community status, the traders concerned had then had T2 papers drawn up on the basis of inaccurate information as to the purchase of the livestock.
- It was found that the quantities involved in other transactions declared to customs had been reduced.

Besides the effects which fraud on this scale had on the operation of the markets, the financial loss to the Community, so far as is known at present, can be estimated at ECU 17 million.

## Chapter 2 - EAGGF Guarantee Section expenditure

### 1. The Commission's powers

Under the rules governing the EAGGF Guarantee Section, the Commission is directly invested with the following powers:<sup>1</sup>

- it must be kept regularly informed by the Member States;
- it may carry out on-the-spot inspections and may request the national authorities to conduct checks;
- within the framework of the procedure for the clearance of accounts it has to verify that expenditure has in fact been incurred and that the rules have been complied with.

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<sup>1</sup> Council Regulation (EEC) No 729/70 of 21.4.1970 on the financing of the common agricultural policy: OJ L 94, 24.4.1970, p. 13.

Council Regulation (EEC) No 595/91 of 4.3.1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field and repealing Regulation (EEC) No 283/72: OJ L 67, 14.3.1991.

Commission Regulation (EEC) No 1723/72 of 26.7.1972 on the clearance of accounts for the EAGGF Guarantee Section: OJ L 186, 16.8.1972.

The Commission must be kept duly informed not only under Regulation (EEC) No 729/70 but also under Articles 3, 4 and 5 of Regulation (EEC) No 595/91, which repealed Regulation (EEC) No 283/72. This new Regulation, which came into force in March 1991, incorporates the lessons learned by experience with a view to more effective prevention of fraud and irregularities. The Member States are to continue to send the Commission a quarterly report specifying any cases of irregularity which have been the subject of primary administrative or judicial findings of fact and are to inform the Commission of the procedures instituted in respect of such irregularities, but henceforth they must also provide more detailed information, e.g. giving the date on which the irregularity was discovered and, where appropriate, identifying the natural and legal persons involved. They must also notify the Commission of any significant changes in these procedures within two months (instead of one month). The minimum sum involved in the irregularity must be ECU 4 000 (instead of ECU 1 000).<sup>1</sup> In 1991, the number of irregularities notified by each Member State and the corresponding impact on EAGGF finances were as follows:

Member State	B	D	DK	EL	ES	F	IRL	I	L	NL	P	UK	TOTAL
Number of cases	24	41	24	14	64	101	10	56	0	93	16	131	574
Amounts involved (ECU million)	3,23	4,17	1,33	0,17	1,7	5,56	0,06	41,77	-	3,98	0,16	5,11	67,24
Amounts recovered (ECU million)	0,02	0,22	1,12	0	0,29	3,1	0	2,27	-	0,81	0,07	1,47	8,74

<sup>1</sup> See Chapter 1, section 4.1.1 of Title II.

A total of 574 cases were reported in 1991 with 478 involving amounts of over ECU 4 000. In 1990, 819 cases were reported with 355 exceeding that limit. As regards the total amount involved, the 355 cases in 1990 represented a total of ECU 137,09 million, whereas the 378 cases in 1991 represented only ECU 67.18 million.

Year	Number of cases over ECU 4 000	Amount ECU million
1990	355	137,09
1991	478	67,18

The sectoral breakdown of cases (see the tables in Annex 2) for both 1990 and 1991 and the comparison between the two years reveal the large amounts involved in 1990 in three major sectors (oils and fats - ECU 33.6 million; milk products - ECU 17,3 million and beef/veal - ECU 28,9 million), the result in each instance of a few very serious cases; the amounts involved in 1991 are much lower in these sectors.

As was to be expected after the introduction of Regulation (EEC) No 595/71, there was in fact a reduction in the overall total of cases and an increase in the number of cases involving over ECU 4 000, but at the same time there was an appreciable drop in the amounts involved. It is not yet possible to draw any real conclusions from the statistics.

The Commission has two legal bases for on-the-spot inspections and for requesting additional checks:

- Article 9(2) of Regulation (EEC) No 729/70, under which the Commission carries out the inspections which it considers appropriate, calling on the assistance of national officials if need be;
  
- Article 8 of Regulation (EEC) No 595/91, under which the Commission, if it considers that irregularities have been committed in one or more Member States, may request the Member State(s) concerned to hold an inquiry in which Commission officials may take part. This Regulation, as distinct from Regulation (EEC) No 283/72, requires Member States to hold such inquiries "at the earliest opportunity" and to communicate the inquiry findings to the Commission "as soon as possible" and it defines the powers conferred on Commission officials in greater detail.<sup>1</sup>

As stipulated in Article 8(a) of Regulation (EEC) No 1723/72, the Commission's clearance-of-accounts decision must specify how much of the expenditure incurred in each Member State during the year in question is recognized as chargeable to the EAGGF Guarantee Section. For the purposes of this decision the Commission cannot recognize any expenditure which has not been incurred in accordance with the Community rules.

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<sup>1</sup> See Chapter 1, section 4.1.1 of Title II.

2. Further action in cases involving the EAGGF Guarantee Section

2.1 Further action in old cases

In 1991 the following developments occurred in inquiries commenced in earlier years:

Fruit and vegetables

. Citrus fruit

The appropriate conclusions were drawn from the 1989 inquiry into the citrus fruit sector; the clearance of the 1989 accounts will include financial corrections in respect of national aid to processors and non-compliance with quality standards on the Italian market.

Following the abovementioned inquiry, in the course of which the controls on withdrawals of mandarins were found to be inadequate, a number of checks were carried out in Italy on the controls applied to withdrawals of other fruit and vegetables (nectarines, peaches and apples). No on-the-spot inspection was deemed appropriate in the case of certain other products (tomatoes, cauliflowers), withdrawals of which were on a very small scale and had occurred at several locations and at various different times.

Observations concerning the shortcomings of the quality control applied to withdrawals and concerning checks on producers' organizations will be communicated to the Member State. The financial consequences will be decided when the 1990 accounts are cleared.

. Storage of dried grapes in Greece

The on-the-spot inquiry revealed a number of shortcomings in the way the Greek authorities applied the Community rules. When the 1989 accounts are cleared, the financial consequences will be decided in respect of the storage aid and financial compensation granted for this product.

## Cereals

### . Durum wheat : Inward processing arrangements and export refunds

(1) There have been some new developments in the inquiry which began in 1989 into inward processing and export refunds in Italy. The national authorities, assisted by the Commission, have carried out several inspections, the conclusions of which are expected in 1992. It should be mentioned that the inquiry has now been extended to cover Spain.

(2) As a result of this inquiry the Commission has amended the legislation concerning inward processing arrangements<sup>1</sup> and has adopted Regulation (EEC) No 3307/91<sup>2</sup> to provide a new tariff classification for groats and meal obtained from common or durum wheat and Regulation (EEC) No 2849/91<sup>3</sup> to adjust the quantities of wheat qualifying for export refunds on meal and to simplify the rules for assessing the ash content.

### . Production aid for durum wheat

Applications for this aid, which is based on the area cultivated, have been received in respect of non-cultivated areas.

The inspections carried out in Greece in 1989 made it possible to identify a certain percentage of the non-cultivated areas concerned but also revealed a tendency towards the "padding" of aid applications.

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1 Commission Regulation (EEC) No 704/91 of 27 February 1991 (OJ L 77, 23.3.1991) and Commission Regulation (EEC) No 2228/91 of 26 June 1991 (OJ L 210, 31.7.1991).

2 Commission Regulation (EEC) No 3307/91 of 13 November 1991 amending Regulation (EEC) No 3846/87 establishing an agricultural products nomenclature for export refunds, with regard to CN codes ex 1102 and ex 1103 (OJ L 313, 14.11.1991, p. 11).

3 Commission Regulation (EEC) No 2849/91 of 27 September 1991 amending Regulation No 162/87/EEC on the method of fixing the export refund on flour, groats and meal of wheat and of rye (OJ L 272, 28.9.1991, p. 62).

Some financial corrections will be made when the 1989 accounts are cleared.

. Quality of cereals (durum wheat and common wheat) in intervention storage

The Commission carried out inspections in Italy and Germany to assess the quality of the cereals held in intervention storage. Some samples were taken and analysed at various laboratories. The results are now being processed by Commission staff, who will shortly draw the appropriate conclusions and inform the Member States concerned accordingly.

. Greek durum wheat declared as exported to Madeira but in fact re-routed to Portugal

In Greece steps are being taken to recover the sums wrongly paid in 1983 because of the difference in the rates of export refund for Madeira and Portugal.

Olive oil

. Quality of olive oil held in intervention storage

In 1989 an inquiry was held into the quality of the olive oil held in Community intervention storage in Spain. Analyses carried out by two Community laboratories revealed that the quality of some oil was not the same as that declared when the oil was taken into storage.

The appropriate financial corrections will be made when the 1989 accounts are cleared.

Meat

. Variable slaughter premium for sheepmeat and goatmeat (claw-back)

The Commission and the United Kingdom have conducted a bilateral investigation into this matter. The inquiries are now in their final stages. Certain data have still to be made available, however, before the Commission can take the appropriate decision.

. Public storage of beef

The inspections concentrated on the quality of the meat in storage. Visits were made to cold stores and slaughterhouses in Ireland, Germany, Italy and the United Kingdom in the course of 1990 and 1991, with a view to verifying (with the assistance of a veterinary expert) whether the meat in intervention storage was of the quality specified and whether it met the requirements laid down.

Bilateral discussions are still being held with the Member States concerned.

. Ewe premium

Following the inquiries in Spain and Greece in 1989, further investigations were made in the United Kingdom and Portugal in 1990. These investigations have revealed shortcomings in the national control arrangements and in some cases the lack of any controls.

In the case of Spain, Greece and the United Kingdom the financial consequences will be drawn when the 1989 accounts are cleared. In the case of Portugal some further checks will be made.

. Withdrawal of pigmeat from the market following the outbreak of swine fever in Belgium

The Commission has carried out a number of inspections at slaughterhouses, cold stores and cutting plants, in order to check on the quantity and quality of the products concerned and to verify their origins.

The findings are now the subject of bilateral discussions between the Commission and Belgium.

. Exports of beef and veal

Three investigations have been carried out to ascertain whether the products concerned were actually released for consumption in the non-member country specified in the application for an export refund. The countries declared as the destination of the meat in question were the following:

Romania

On-the-spot checks and an examination of the documents obtained have not confirmed the existence of any irregularities.

Mauritius

The investigation revealed that export refunds had been wrongly paid. The Commission is monitoring the recovery procedures initiated by the Member States concerned.

Zimbabwe and Zaïre

The Commission is monitoring the recovery procedures initiated by the Member States concerned.

**Milk products**

. Intervention purchases of butter (NIZO)

Until 1 July 1987, Regulation (EEC) No 985/88 required that butter for intervention should be made from sour cream. In the Netherlands much of the butter bought in between 1980 and 1 July 1987 was ineligible because a process whereby butter was manufactured from sweet cream was widely used in that country. However, since it is legally impossible for the EAGGF to reverse the clearance-of-accounts decisions taken by the Commission before the inquiry was held, financial corrections can only be made in respect of 1987.

Investigations in France revealed that in 1984 the French authorities set up a control system (sampling and analysis of cream) to ensure that butter for intervention is made from sour cream.

## Tobacco

As a direct result of the conclusions reached by a group of experts and the outcome of the inquiries conducted,<sup>1</sup> the Commission took the initiative of drawing up a number of proposals for Council regulations:<sup>2</sup>

- concerning inter-branch organizations and agreements in the tobacco sector;
- on the common organization of the market in raw tobacco;
- fixing the premiums for leaf tobacco by group of varieties and allocating processing quotas by group of varieties and by Member State.

The need for a better appraisal of the risks of fraud has received special attention. In this connection it is planned:

- (1) to group the varieties of tobacco together in more easily identifiable families, with a single rate of premium per family, and thus put an end to situations where there are too many varieties which are difficult to identify once harvested and which could give rise to fraud, in view of the different rates of premium for each variety;
- (2) to improve the control arrangements, and in particular to set up specific agencies co-financed by the Community.

## 2.2 New cases

Several new investigations were conducted in 1991, namely:

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1 Including the inquiry in Italy in 1990 into the payment of premiums for the Badischer Geudertheimer hybrid variety.

2 OJ C 295, 14.11.1991.

. Exports of tobacco

The Commission received information to the effect that Greek tobacco of the Tzebellia and Mavra varieties was being exported to Bulgaria in breach of the rules: in particular, the tobacco was being exported in leaf form instead of being processed as required by the legislation.

An inquiry was held in Greece to ascertain whether the tobacco in question had in fact been exported in accordance with the rules.

On-the-spot inspections and an examination of the relevant documents have so far failed to uncover any irregularity.

. Nuts

In view of the very strong demand from Spanish nut-growers to qualify for the specific measures introduced by Regulation (EEC) No 789/89,<sup>1</sup> investigations were carried out in Spain to verify operations in that sector and to ensure that they were in accordance with the Community rules. On-the-spot inspections failed to reveal any irregularity. On the other hand, observations concerning the shortcomings of the system for applying the regulations were addressed to the Spanish authorities.

. Exports of beef to Côte d'Ivoire

An on-the-spot inquiry was held to ascertain whether the meat imported from the EEC met the minimum conditions for obtaining export refunds.

It was found that much of the boned meat exported contained an excessive percentage of fat (over 50%), which ought to have ruled out the granting of any refund.

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<sup>1</sup> Council Regulation (EEC) No 789/89 of 20 March 1989 instituting specific measures for nuts and locust beans and amending Regulation (EEC) No 1035/72 (OJ L 85, 30.3.1989).

The inquiry is still in progress. Whatever the outcome, all Member States have been asked to apply substantially tighter controls to meat exports.

. Export of beef to Yugoslavia and Lebanon

Investigations were made in Lebanon and Yugoslavia into EEC exports declared as intended for Lebanon and the United Arab Emirates (differentiated refunds).

It was found that the goods declared as intended for Lebanon had not arrived in that country. On the other hand, some meat declared as intended for the United Arab Emirates had arrived in Lebanon, where it had been released for consumption, although it had qualified for the higher rate of refund granted on exports to the Emirates.

The Member States concerned have initiated proceedings for the recovery of the sums wrongly paid.

. Olive oil

An analysis of the statistics covering intra-Community trade in olive oil and other information obtained by the Commission revealed significant discrepancies between the quantities declared as exported from Greece and the quantities recorded as imported into Italy.

The preliminary results of the investigations made in Greece and Italy revealed certain anomalies. With a view to clarifying the situation and drawing the appropriate conclusions, inquiries will continue in 1992.

. Milk powder

An inquiry is currently being held into the circumstances in which Community milk powder was exported to non-member countries in 1988, having qualified for export refunds.

Similarly, an inquiry is being held into the processing operations using a milk-powder product which is imported into the Community in liquid form and qualifies for Community aid when it is used for the manufacture of animal feedingstuffs.

### Chapter 3 - Structural Funds

The structural policies have entailed a considerable financial outlay, which has in turn necessitated a tightening of the control arrangements. Council Regulation (EEC) No 4253/88,<sup>1</sup> for example, was intended to coordinate the assistance from the various structural Funds, whilst placing on the Member States the obligation to prevent and prosecute irregularities and to inform the Commission accordingly.

In 1990 a code of conduct<sup>2</sup> proposed by the Commission was introduced to provide detailed rules for the implementation of Article 23(1) of Regulation (EEC) No 4253/88. This code requires Member States, on the one hand, to communicate to the Commission, any national provisions adopted with a view to preventing and taking action against irregularities and to identify the departments responsible for implementing these provisions and, on the other hand, to report all irregularities involving over ECU 4 000, at four-monthly intervals.

This code was declared null and void on 13 November 1991,<sup>3</sup> however, the Court of Justice having accepted the application for annulment lodged by France (with Belgian support) on the basis of Article 173 of the EEC Treaty.

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1 Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and other existing financial instruments (OJ L 374, 31.12.1988).

2 OJ C 200, 9.8.1990.

3 Judgment of the CJEC of 13 November in Case 303/90 France v Commission.

The arguments adduced by France included the contention that the matter was outside the competence of the Commission, its violation of the Community rules and misuse of procedures. Having concluded that the code constituted an act intended to produce legal effects distinct from those of Article 23 of Regulation (EEC) No 4253/88, the Court found the application admissible and acknowledged that the code had been adopted by an authority which had not been invested with the powers to do so. The Commission will have to draw the appropriate conclusions from this ruling, since the arrangements for notifications from the Member States call for the introduction of binding provisions (proposal for a regulation). It should be pointed out, however, that the annulment of the code of conduct does not free the Member States from their obligation to keep the Commission informed under the abovementioned Article.

Member States' communications covering the period from 1 November 1990 to 31 December 1991<sup>1</sup> may be broken down as follows:

MEMBER STATE	STRUCTURAL FUNDS							
	ESF		EAGGF		ERDF		TOTAL	
	CASES	AMOUNT IN ECU	CASES	AMOUNT IN ECU	CASES	AMOUNT IN ECU	CASES	AMOUNT IN ECU
BE	0	0	0	0	0	0	0	0
DA	0	0	1	11 512	0	0	1	11 512
DE	0	0	0	0	0	0	0	0
EL	2	79 123	7	47 559	0	0	9	126 682
ES	1	14 354	5	75 625	0	0	6	89 979
FR	1	389 934	1	233 738	1	287 478	3	871 150
IR	0	0	5	44 448	0	0	5	44 448
IT	0	0	0	0	0	0	0	0
LU	0	0	0	0	0	0	0	0
NL	0	0	12	119 436	0	0	12	119 436
PO	0	0	0	0	0	0	0	0
UK	0	0	2	125 662	3	96 831	5	222 493
TOTAL	4	463 411	33	657 680	4	384 309	41	1485 700

<sup>1</sup> This period covers all communications received under Regulation (EEC) No 4253/88 since it came into force.

At the meeting of the Community Committee for the Coordination of Fraud Prevention on 23 October 1991 constructive discussions were held with the Member States. Attention was drawn to the predominance of communications relating to the EAGGF Guidance Section (the national departments concerned are more aware of the requirements in this area, which have been in force for some time), the small amounts usually involved and the disparities from one Member State to another.

The communications in question may be broken down as follows:<sup>1</sup>

#### 1.1 EAGGF Guidance Section

Since 1 November 1990, seven Member States have informed the Commission of a total of 29 cases involving ECU 657 980 in all.

Spain has also notified four additional cases of irregularity but the sums involved have not yet been specified.

The irregularities involving the largest sums occur mainly in the wine sector and in connection with Council Regulation (EEC) No 355/77 of 15 February 1977 on common measures to improve the conditions under which agricultural products are processed and marketed.<sup>2</sup>

#### 1.2 European Regional Development Fund

In 1991 only one Member State notified a case of fraud to the Commission. The sum involved was ECU 21 452. In three cases notified before 1991, however, a total of ECU 342 857 had to be recovered from two Member States.

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1 Cf. Annex 3.

2 OJ L 51, 23.2.1977.

No cases of fraud were detected in the course of the checks carried out by the Commission during the year. Visits to the Member States enabled Commission staff to gain a better understanding of the national arrangements for ensuring the proper operation of the ERDF.

### 1.3 European Social Fund

Three Member States notified the Commission of four cases (one in 1990 and three in 1991) where the total sums to be recovered amounted to ECU 463 411, of which ECU 14 354 has already been recovered.

As regards the cases notified by Portugal under the abovementioned legislation, the present situation may be summarized as follows:

- up to the end of 1991, a total of 328 cases relating to the period 1986-89 had been notified by Portugal under Article 7 of Decision 83/673/EEC. The suspected irregularities involved payments of ECU 121.1 million (136 cases involving an initial advance and balance of ECU 57 million have been closed; 192 cases involving an initial advance of ECU 64.1 million have not yet been closed). The Commission decided to initiate civil action in 27 criminal proceedings involving a total of 35 cases, and was informed of the outcome in each case by the Portuguese courts; in 18 of these cases full or partial repayment was ordered, involving the reimbursement of almost ECU 750 000 in all;
- in 238 cases also covering the period 1986-89 the Portuguese authorities submitted requests for the payment of the balance (ECU 16 million), subject to checks in the form of the appropriate inspections and audits. In doing so the Portuguese authorities were anxious to provide maximum guarantees without conceding that any irregularities were suspected.

## TITLE II. WORK PROGRAMME

It should be pointed out to begin with that this Title concerns the Commission's work programme on combating fraud as set out in Annex 4 and makes a variety of comments on some of the 45 points classified under the headings of prevention, cooperation and counteraction. There has been substantial progress in carrying out this programme, the scope and content of which will be slightly revised in 1992.

### Chapter 1 - Prevention

#### 1. Preventing the risk of fraud at the legislative stage (point 13)

In 1990 the Commission set up an internal procedure covering agriculture and fisheries, the object of which was to introduce preventive control based on the principle of functional separation between the department managing a resource and the department responsible for financial control, in order to ensure that the susceptibility to fraud of proposed regulations is assessed.

Thanks to the application of this procedure, implementation of the Commission's guidelines aimed at the systematic introduction of control provisions and, where appropriate, sanctions in the area of the EAGGF, Guarantee Section, has proceeded satisfactorily.<sup>1</sup>

Furthermore, under Article 3 of the Financial Regulation,<sup>2</sup> which stipulates that "any proposal or communication submitted by the Commission to the Council which may have budgetary consequences ... must include a financial statement", a financial statement has been drawn up containing in

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1 SEC(90)1381, 12 July 1990.

2 Council Regulation (ECSC, EEC, Euratom) No 610/90 of 13 March 1990 amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities: OJ L 70, 16.3.90.

its first section, on the financial implications, an item 8 entitled:  
"What anti-fraud measures are planned in the proposal for the operation?"

The inclusion of this item should promote an awareness of potential hazards and encourage departments to take appropriate counter-measures.

The financial statement is designed to be applied at two stages:

- as part of the process of drawing up the annual budget;
- in the more specific context of any proposed measure put forward by a Directorate-General.

Certain difficulties have cropped up in the application of this procedure and the degree of application varies from one field to another. Thought must be given to ways of achieving more positive results.

## 2. Simplification of agricultural legislation (points 1 and 2)

The Commission has asked an expert working party chaired by Mr André Lachaux to look at ways of simplifying the rules with a view to making them easier to understand and thereby minimizing a major contributory factor to fraud.

In the course of 1991 the working party's earlier work produced encouraging practical results. For example, on 3 May 1991 the Commission adopted Regulation (EEC) No 1157/91 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs and amending Regulation (EEC) No 570/88,<sup>1</sup> basing itself, at least in part, on the report which the party submitted in December 1990. In particular, the Regulation adopted the working party's recommendations that:

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1 OJ L 112, 4.5.1991.

- the formulas relating to the classification of final products into which butter or concentrated butter has been incorporated, should be merged;
- the requirements governing uncooked dough cut up into pieces of characteristic sizes and shapes should be dropped;
- the Member States should be allowed to establish a system of quality control measures.

This year, too, the working party produced work containing a number of major recommendations.

The suggestions concerning refunds on the use of starch involve:

- waiving the obligation on an operator to state in his certificate application the eligible product which he proposes to manufacture, except where the starch is converted into esterified starch;
- establishing an optional approval procedure for internal control systems set up by starch users;
- concomitant simplification of the refund payment procedure;
- dropping the practice of systematically checking the final destination of esterified starch by establishing stricter controls on starch mills where it is made.

Thought has been given to two aspects of the sheep compensatory payment system:

- adjustments to the existing system, involving the definition of an eligible sheep, the methods of monitoring the granting of premiums

- and the methods of calculating the payment;
- a more forward-looking proposal for a system of premiums for any lamb brought for slaughter to an approved slaughterhouse or, by way of exemption, slaughtered under previously agreed conditions.

As regards the agricultural product nomenclature for export refunds (Commission Regulation (EEC) No 3795/91 of 18.12.1991 amending the Annex to Regulation (EEC) No 3846/87)<sup>1</sup> the petfood sector was chosen for a proposal for simplification which could be extended to the other sectors. Out of a threefold concern to establish effective control of declarations, simplify the work of operators and ascertain the economic impact of the rates of refund granted on each product, it is recommended that certain parameters, which lead to a proliferation of subheadings, should be abolished and the number of subheadings reduced.

The working party has, lastly, moved into a new area with its work on the rules governing the T5 control copy. In addition to the suggestion that the existing T5 should be replaced by an EEC5 document which would circulate only between the body responsible for payment in the Member State of origin and the inspecting body in the destination Member State, there are also proposals for establishing administrative cooperation between the national inspection agencies and for Member States to appoint a single inspection and payment body.

These suggestions are currently being considered.

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1 OJ L 358, 30.12.1991.

In parallel with the work of the Lachaux working party, the Commission is directly involved in efforts to simplify agricultural legislation. As part of the reform of the CAP, the Council is being presented with a whole range of full or partial revisions of regulations (particularly as regards cereals, beef and veal, milk and milk products); if adopted, these would make a considerable contribution to the gradual simplification of the regulatory aspects of the CAP.

### 3. The refunds nomenclature (point 2)

During 1991 the Commission was not idle in the matter of refunds nomenclature. Over and above its application to the very specific sector of petfood (see point 2 above), the Lachaux working party's proposal for simplification could lead to a number of initiatives in other areas as well.

There do, however, seem to have been some difficulties which have held up progress.

It is significant that it has not so far proved possible, by analysing the milk products sector, to conclude from the number of problems arising that there should be a major reduction in the number of headings. Some Member States have been putting technical and commercial necessity forward as an argument for a detailed nomenclature. At all events the Commission, which is aware of the need to simplify and clarify the nomenclature, has embarked on a special study of milk products. Depending on the outcome, consideration may be given to changes in the nomenclature, particularly as regards cheese. These could include:

- striking out headings which are unnecessary because they are little used or are of no interest to the market;

- levelling out refunds for similar products with proposals for higher standards (for oils and fats);
- reducing the range between the highest and lowest amounts by lowering the level of the high refunds.

#### 4. Controls

##### 4.1. Tightening of controls (points 10 and 35)

4.1.1. Regulations introduced in 1991: there has been a strengthening of the rules on two levels:

- as regards resources: Council Regulation (EEC) No 307/91<sup>1</sup> and Commission Regulation (EEC) No 967/91;<sup>2</sup>
- as regards exchanges of information: Council Regulation (EEC) No 595/91.<sup>3</sup>

The object of Regulation (EEC) No 307/91 is to reinforce the monitoring and detection of fraud and irregularities and encourage the Member States to take appropriate measures. It provides for the Community to bear certain costs for five years, its contribution being 50% for the first three years and 25% for the fourth and fifth years, up to a ceiling of ECU 20 million per year. This breaks down into ECU 10 million under Article 1, in connection with exports of agricultural products and products exported as goods not falling within Annex II to the Treaty, and ECU 10 million under Article 2, in connection with measures applicable to certain sectors or products.

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1 Council Regulation (EEC) No 307/91 of 4.2.1991 on reinforcing the monitoring of certain expenditure chargeable to the Guarantee Section of the EAGGF: OJ L 37, 9.2.1991.

2 Commission Regulation (EEC) No 967/91 of 19.4.1991 laying down detailed rules for the application of Council Regulation (EEC) No 307/91: OJ L 100, 20.4.1991.

3 Council Regulation (EEC) No 595/91 of 4.3.1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field and repealing Regulation (EEC) No 283/72: OJ L 67, 14.3.1991.

The costs covered are those of remuneration, training, briefing and equipping agents and, under Article 1 only, monitoring work entrusted to surveillance firms and laboratories. By taking this action the Community demonstrates its awareness of the financial burdens and additional constraints imposed on Member States.

Regulation (EEC) No 967/91 specifies the practical extent of the Community's financial contribution, particularly the flat-rate amounts used to indicate the expenditure incurred on remuneration, and lays down rules governing the approval of surveillance firms and laboratories.

The objectives of Regulation (EEC) No 595/91, as compared with Regulation (EEC) No 283/72, which it repeals,<sup>1</sup> are:

- to ensure that the Commission is better informed at two levels:
  - (1) about irregularities in the financing of the common agricultural policy;
  - (2) about national administrative and judicial procedures in this area at all stages from initiation to conclusion covering, in addition to the sanctions imposed, any major changes which took place during the procedures and, in particular, the amounts recovered;
  
- to encourage the most effective possible detection of irregularities and the subsequent recovery of amounts wrongly paid, with the help of a financial contribution from the Community on two conditions:
  - (1) the Member State may keep 20% of the amounts recovered in cases of irregularities reported;
  - (2) the Member State shall be reimbursed all or part of the legal costs and costs arising directly from legal proceedings where such proceedings have been initiated or continued at the request of the Commission.

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<sup>1</sup> Cf. Chapter 2(1) in Title I.

The Regulation also lays down or specifies the following:

- the minimum threshold above which cases of irregularities must automatically be notified is raised from ECU 1 000 to ECU 4 000, while the Commission reserves the right to obtain information concerning cases where smaller sums are involved;
- it specifies the arrangements for participation by Commission officials in national inquiries, subject to the national rules governing criminal procedure.

#### 4.1.2. Application of the Regulation on scrutiny after payment

Council Regulation (EEC) No 4045/89 concerning scrutiny after payment<sup>1</sup> has been followed up methodically. At meetings of the expert working party responsible, attention focused on:

- scrutiny of expenditure through final accounts for 1990 and the statement of advances for 1991. A total of ECU 5.16 million was earmarked in the 1991 budget on the basis of Articles 13 and 14 (staff remuneration and training);
- communications in respect of mutual assistance among the Member States under Article 7. Standard forms have been drawn up for this purpose;
- programmes for scrutinies, as laid down in Article 10, for the periods running from 1 July 1990 to 30 June 1991 and from 1 July 1991 to 30 June 1992. In respect of the first period, particular stress was placed on differences in the way information was presented and in the

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<sup>1</sup> Council Regulation (EEC) No 4045/89 of 21.12.1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of EAGGF and repealing Directive 77/435/EEC: OJ L 388, 30.12.1989, and its implementing Regulation, Commission Regulation (EEC) No 1863/90 of 29.6.1990: OJ L 170, 3.7.1990.

amount of information supplied; to rectify this, presentation sheets have been drawn up. As regards the second period, the following table sets out the Member States' plans for post-payment scrutinies:

Firms to be scrutinized

	Number planned to be scrutinized	Category		
		>ECU 200 000	>ECU 10 000 and <ECU 200 000	<ECU 10 000
B	241	168	73	-
D	1137	474	569	94
DK	342	126	117	99
EL	310	270	40	-
ES	468	251	216	1
F	1092	652	440	-
IRL	110	69	41	-
I	1466	1184	282	-
L	4	3	1	-
NL	298	192	106	-
P	45	35	10	-
UK	638	440	196	2
<b>Total</b>	<b>6151</b>	<b>3864</b>	<b>2091</b>	<b>196</b>
<b>%</b>	<b>100</b>	<b>63</b>	<b>34</b>	<b>3</b>

Compliance with the provisions governing the minimum number of scrutinies to be carried out pursuant to Regulation (EEC) No 4045/89 was adequate. In their programmes of scrutinies the Member States made plans for checking 6 151 firms, 24% more than the minimum required number.

#### 4.2. Physical checks and audits of export transactions (points 7, 9 and 22)

1990 saw the adoption of Regulation (EEC) No 386/90 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts and its implementing Regulation (EEC) No 2030/90,

as well as Regulation (EEC) No 354/90 amending Regulation (EEC) No 3665/87 as regards proof of arrival at destination in third countries of agricultural products qualifying for a variable refund. The following points should be noted in connection with implementation of the abovementioned Regulations.

- Pursuant to Article 7(2) of Regulation (EEC) No 386/90, a report to the Council on progress in the implementation of the said Regulation is being drawn up. Questionnaires have been sent out to the Member States for the purpose of collecting the requisite information. Note that, whereas Article 2 of Regulation (EEC) No 386/90 specifies two types of checks, physical checks on goods and checks on the basis of documents submitted in support of the payment application, the first type of check is subject to a transitional period to which, inter alia, the final rate of 5% of export declarations (see Article 3(1)(b)) has not yet had to be applied. This reservation aside, it appears that the Member States, generally speaking, would prefer a system which was not rigid (taking account of an analysis of risks at national level and not imposing a fixed rate for all sectors).
  
- Discussion is at present under way in the relevant Commission departments concerning Regulation (EEC) No 3665/87<sup>1</sup> and more particularly Article 18<sup>2</sup> (proof of compliance with customs formalities on release for home use).

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1 Commission Regulation (EEC) No 3665/87 of 27.11.1987 laying down common detailed rules for the application of the system of export refunds on agricultural products: OJ L 351, 14.12.1987, as amended by, inter alia, Commission Regulation (EEC) No 354/90 of 9.2.1990: OJ L 38, 10.2.1990.

2 See point 9 of the work programme.

#### 4.3. Development of new control structures and methods (points 21 and 45)

4.3.1. **Community control bodies:** Pursuant to Council Regulation (EEC) No 2048/89 of 19 June 1989 laying down general rules on controls in the wine sector,<sup>1</sup> particularly Article 6, the Commission set up a special group of officers to take part in on-the-spot inspections with the competent bodies in the Member States in order to ensure uniform application of rules in the wine sector.

Eight staff have so far been recruited. They have carried out missions to the competent bodies in all the Member States. During inspections carried out in 1991 the following general findings emerged:

- there are certain differences in the way the various Member States apply the Community rules;
- there are differences in the facilities for and organization of inspections from one Member State to another.

There was, in particular, a failure to comply with certain provisions in the Community rules governing enrichment, labelling, the keeping of registers and the movement of products.

4.3.2. **Agencies:** Set up under Regulations (EEC) No 2262/84<sup>2</sup> and No 27/85,<sup>3</sup> the olive oil inspection agencies,<sup>4</sup> in addition to inspections in respect of production aid, were made responsible for inspections in respect of consumption aid and purchases and storage by the intervention

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1 OJ L 202, 14.7.1989.

2 Council Regulation (EEC) No 2262/84 of 17 July 1984 laying down special measures in respect of olive oil: OJ L 208, 3.8.1984.

3 Commission Regulation (EEC) No 27/85 of 4 January 1985 laying down detailed rules for the application of Regulation (EEC) No 2262/84: OJ L 4, 5.1.1985.

4 In 1985 these were: Greece (OEEE) and Italy (AGECONTROL). In 1987: Portugal (ACACSA) and Spain (AAO).

bodies, under Regulation (EEC) No 200/90.<sup>1</sup>

In Italy, since it started operating, the agency has inspected 15 % of the mills and put forward 349 proposals that approval be withdrawn from mills , 3 proposals for sanctions to be taken against producer organizations, more than 8 800 proposals with financial repercussions for olive-growers (inspection of 33% of the olive-growers ), and 15 proposals that approval be withdrawn from packaging firms (2% of existing firms).

In Greece, since it started operating, the agency has inspected 15 % of the mills and made a total of 197 proposals that approval be withdrawn from mills and proposals for sanctions against 6 producer organizations and a number of associated olive-growers.

In Portugal, since it started operating, the agency has altogether carried out on-the-spot inspections on 1 200 olive-growers, organized or otherwise, out of a total of 44 200, and detected inaccuracies in the declarations of the number of olive trees in production and sent its inspection reports, concerning nearly 600 olive-growers, to the INGA, which will have to make the requisite adjustments when paying production aid.

In Spain, the agency detected irregularities involving nearly 280 olive-growers of the 1 600 which it has inspected since it started operating.

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<sup>1</sup> Council Regulation (EEC) No 200/90 of 27 January 1990: OJ L 22, 27.1.1990.

There should also be further action to widen the scope of the agencies' activities in the olive oil sector; a proposal for a Council Regulation amending Regulation (EEC) No 2262/84 was presented by the Commission and is at present being discussed by the Council.<sup>1</sup>

According to this proposal:

- 50% of agencies' actual expenditure would be chargeable to the general budget of the European Communities.
- Agencies would be responsible for carrying out checks on all forms of Community aid in the sector except for export refunds.
- The Commission would be entitled to be represented in the agencies.
- The Member States would have to act on agencies' findings (by prosecuting in cases of fraud) and regularly communicate to the Commission a list of the sanctions applied as a result of the agencies' findings; these communications would not affect the application of Regulation (EEC) No 595/91.<sup>2</sup>

4.3.3. Remote sensing: There have been several developments in this field.

- The Commission held a seminar on 27 and 28 June 1991 on EAGGF fraud; this included a presentation of remote sensing as a suitable instrument for improving checks.
- Regulations (EEC) No 1703/91 introducing a temporary set-aside scheme for arable land for the 1991/92 marketing year<sup>3</sup> and No 3768/91 establishing a support system for producers of soya beans, rape seed and

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1 COM(91)269 final of 26 July 1991: OJ C 206, 7.8.1991.

2 Cf. Chapter 2(1) of Title I and point 4.1.1 of this Chapter.

3 Council Regulation (EEC) No 1703/91 of 13 June 1991 introducing a temporary set-aside scheme for arable land for the 1991/92 marketing year and laying down special measures for that marketing year under the set-aside scheme provided for in Regulation (EEC) No 797/85: OJ L 162, 26.6.1991. See also Commission Regulation (EEC) No 2069/91 of 11 July 1991 laying down detailed rules for the application of the temporary set-aside scheme for arable land for the 1991/92 marketing year. OJ L 191 16.7.1991.

colza seed and sunflower seed<sup>1</sup> provide explicitly for the use of remote sensing as a means of carrying out checks.

- The durum wheat experiment tried in 1990 was continued. The Commission has proposed that the Member States jointly set up a system of checking individual aid applications with the help of remote sensing. Durum wheat, cotton, set-aside of arable land and the grubbing-up of vines have been chosen as the sectors for this test, which involves four zones in Spain, France, Greece and Italy respectively, covering a total of 38 000 km<sup>2</sup>, with funding from the EAGGF.

The method consists of carrying out computer-assisted photointerpretation of images obtained at different times, the dates chosen depending on the growing cycle of the crops to be verified, with the help of a ground truth survey put together by means of sample ground plotting, and by superimposing on the images the cadastral limits (or equivalent references) of the parcels declared. By photointerpretation of both the surface area and the use of the ground, parcels are classified individually and then complete farmholdings are classified into three categories: accepted, rejected or doubtful. In the latter two cases, the surveyors' judgement must be confirmed on the spot by the national officials; only their reports have legal force as regards granting or withholding aid.

By adopting this method, inspections can be concentrated on obviously sensitive cases. In 1991 nearly 2 600 farms (3.6% of the total number) and 15 000 parcels were inspected; total outgoings were approximately ECU 778 000. Results are still incomplete, but they show that at least two thirds of cases need not be subjected to on-the-spot checks, as photointerpretation shows, with only 7% probability of error, that they are eligible.

4.3.4. Integrated management and control system: In connection with the reform of the CAP, the draft proposal for a Council Regulation establishing an integrated management and control system for certain Community aid

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1 OJ L 356 24.12.1991

arrangements, designed to cover both animal and crop products, should be given all appropriate attention in 1992.

4.3.5. Audits: The Commission is quite prepared to use the services of companies specializing in inspection and surveillance or, where appropriate, auditing.

Research contracts concluded under the Community framework programme for research and technological development are financially audited by outside agencies under the responsibility of the relevant Commission departments. Contractors are selected for on-the-spot inspections on the basis of criteria such as their structure (undertakings, universities, government departments, research institutes, etc.), the number of research contracts in which they are involved, the amount of Community financing they receive through the contracts concerned and their geographical location. Audits focus on checking the costs chargeable to the Commission and on compliance by the contractors' accounting system with the contractual stipulations, and audit reports are drawn up.

Copies of these reports are sent to contractors by the Commission with its comments. The effect of these may be to make a financial adjustment to the eligible costs involving an adjustment to subsequent payments or the recovery of sums already paid.

With respect to inspections carried out as part of programmes administered by the relevant Commission departments, the total number of inspections carried out since 1987, when the second RTD Framework Programme began, is over 450, two thirds of which were carried out by auditing firms. More than 1 000 contracts were checked.

While the financial repercussions of these audits is difficult to measure, they do have a very marked psychological impact on contractors, who are linked together in many different ways; this itself heightens the deterrent effect.

#### 5. Customs code (point 3)

The Community is planning to adopt a customs code covering all customs legislation. The Commission had already submitted a proposal to that effect<sup>1</sup> which was given preliminary consideration by the Council in the course of 1990.

On 22 February 1991 Parliament approved the proposal but asked for a number of amendments, after consulting its various committees (the Committee on Economy and Monetary Affairs and Industrial Policy; the Committee on Budgets in conjunction with the Court of Auditors; the Committee on External Economic Relations; and the Committee on Legal Affairs and Citizens' Rights).<sup>2</sup> Two amendments with a major effect on the protection of the Community's financial interests, Amendment No 5, proposing a recital 8b,<sup>3</sup> and Amendment No 23, proposing an Article 201(2a),<sup>4</sup> are noteworthy. The Commission drew up an amended proposal, which was forwarded to the Council on 27 March 1991.<sup>5</sup> This incorporated the amendments, which were fully in line with its objectives.<sup>6</sup>

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1 OJ C 128, 23.5.1990.

2 OJ C 72, 18.3.1991.

3 "Whereas, when adopting implementing measures under the code, the Commission and the Customs Code Committee must, wherever possible, strive to prevent all fraud and irregularities likely to be detrimental to the general budget of the European Communities;"

4 "Compensatory interest shall be applied on a case-by-case basis in the manner provided for in the implementing provisions defined in Article 255, in order to avoid any unfair financial advantage being obtained by deferment of the date on which the customs debt is incurred."

5 OJ C 97, 13.4.1991.

6 Amendment No 23 was incorporated into Article 211 by adding a paragraph 3, by means of a formal amendment.

The Council has considered the proposal for a second time since July 1991. As part of that process the Presidency proposed to continue its work by way of a twofold approach. Besides the second reading of the proposed articles, separate consideration is being given to the principal material problems still pending (economic and financial questions as to the field of application of the code raised by the delegations and questions of civil and administrative law). A common position should be reached in the first half of 1992. It would already appear that a code of application for the Customs Code will be necessary.

#### 6. The Community transit procedure (point 4)

The objective set out in Article 8a of the EEC Treaty, that of a single market without internal frontiers on 1 January 1993, has already been attained as far as basic Council rules on Community transit are concerned and will shortly be attained as far as implementing rules are concerned. There seem to have been no major difficulties in implementing the rules introduced in 1990.<sup>1</sup> It should be pointed out in this connection that Council Regulation (EEC) No 2726/90 will be supplemented in the near future by an implementing Commission Regulation.<sup>2</sup> Administrative agreements have also been concluded; these have made it easier to implement Regulation (EEC) No 474/90 amending, with a view to abolishing lodgement of the transit advice note on crossing an internal frontier of the Community, Regulation (EEC) No 222/77 on Community transit, as well as Regulations (EEC) No 1429/90 and No 2920/90 amending Regulation (EEC) No 1062/87 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure.<sup>3</sup>

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1 See "The fight against fraud: report on work done and progress achieved in 1990", SEC(91)456 final of 20 March 1991, p.51.

2 Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit; OJ L 262, 26.9.1990; draft Commission Regulation on the arrangements for implementing Regulation (EEC) No 2726/90.

3 Council Regulation (EEC) No 474/90 of 22 February 1990: OJ L 51, 27.2.1990; Commission Regulation (EEC) No 1429/90 of 29 May 1990: OJ L 137, 30.5.1990; Commission Regulation (EEC) No 2920/90 of 10 October 1990: OJ L 279, 11.10.1990.

On a more general note, 1991 also saw the adoption by the Council and the Commission of several Regulations and one Directive,<sup>1</sup> the main aim of which was to simplify and rationalize frontier checks (Council Directive (91/342/EEC)) or eliminate them (Council Regulation (EEC) No 719/91; Council Regulation (EEC) No 3648/91). For that purpose, there is scope for a redeployment of the national resources intended for combating fraud, following the disappearance of purely administrative constraints, to give way to more significant measures.

7. Establishment of a data base on national anti-fraud systems (points 14 and 28)

The purpose of this data base is to centralize information concerning Community regulations and national legislation, national bodies responsible for investigating fraud, the investigative powers of national and Commission officials, mutual assistance with regard to fraud, notification of cases of fraud and recovery, compounding and Community and national sanctions (administrative and criminal procedure). The areas covered are own resources, the EAGGF Guarantee Section, the structural Funds and the common policy on fisheries and the sea.

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1 In OJ L 78, 26.3.1991: Council Regulations (EEC), all of 21 March 1991, No 717/91 concerning the Single Administrative Document, No 718/91 amending Regulation (EEC) No 3/84 introducing arrangements for the movement within the Community of goods sent from one Member State for temporary use in one or more other Member States, and No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents. Commission Regulation (EEC) No 1593/91 of 12 June 1991 providing for the implementation of Council Regulation (EEC) No 719/91: OJ L 148, 13.6.1991. Council Directive (91/342/EEC) of 20 June 1991 amending Directive 83/643/EEC on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States: OJ L 187, 20.6.1991. Council Regulation (EEC) No 3648/91 of 11 December 1991 laying down the methods of using form 302 and repealing Regulation (EEC) No 3690/86 and Regulation (EEC) No 4283/88: OJ L 348, 17.12.1991.

Following an assessment of the conclusions of a pilot study of own resources, the scope of the audit and methodological questions were reviewed in detail. A list of the sources of relevant information already available in the Commission was drawn up and work started on compiling data. A contract for this purpose was concluded with the European University Institute in Florence on 29 May 1991.

According to the provisional timetable, the compiling of data should be completed by the middle of 1993 and the system should become operational at the end of that year.

In parallel with the compilation of data, a computerized system for accessing the data, known as the anti-fraud documentation or DAF system, is being developed at the Joint Research Centre in Ispra. The Centre concluded its feasibility study and devised a prototype using the data collected in the course of the pilot study of own resources. The prototype has been demonstrated to interested Commission departments. The design of the final system should be complete by the middle of 1993.

## Chapter 2 - Cooperation

### 1. Dialogue

Community integration cannot be achieved without dialogue and fraud against the Community budget cannot be fought successfully without administrative cooperation. Fraud is such a complex phenomenon, affecting both the Community and individual Member States, that dialogue is essential if it is ever to be fully understood.

The Commission tries to encourage dialogue by acting transparently, especially at specialist and multipartite meetings.<sup>1</sup> Certain action, such as the organization of seminars, reflects this emphasis on dialogue - a dialogue which, whether it occurs between national authorities or involves the Commission as well, is facilitated by a number of provisions in the legislation. At the same time, investigations and missions to uncover irregularities increasingly involve Member States' own internal structures.

The impact of this dialogue is also felt at the financial level since the Community's budgetary contribution to national control structures is far from insignificant; this year, for example, the Community provided funding in various forms under Council Regulations (EEC) Nos 307/91, 895/91 and 4045/89.<sup>2</sup> In addition to these horizontal agricultural regulations, there are several vertical texts in which the extent of the Community's budgetary support is clearly apparent.<sup>3</sup>

## 2. Training (points 31, 32, 33)

It is important that national officials helping to protect the Community's financial interests are fully aware of what is at stake for the Community. The Commission has therefore taken a long-term view and has put considerable effort into training by organizing seminars and setting up

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1 EAGGF Committee, the working party set up under Regulation (EEC) No 4045/89, EAGGF Working Party on Irregularities and Mutual Assistance, Customs Working Party on Administrative Cooperation (Regulation (EEC) No 1408/81), Advisory Committee on Own Resources (ACOR), Community Committee for the Coordination of Fraud Prevention (COCOLAF).

2 See Chapter 1 Section 4.1 of this Title.

3 See for example the proposal for a Council Regulation (EEC) amending Council Regulation (EEC) No 2262/84 laying down special measures in respect of olive oil (Article 1(6), COM(91)269 final, 26.7.1991; OJ C 206, 7.8.1991).

the Matthaëus programme. Furthermore, one of the main objectives of the associations of European lawyers is the improvement of training for those involved in the legal protection of the Community's financial interests.

## 2.1. Seminars

A number of seminars were organized by the Commission during the year:

- Further seminars on the Community's fraud prevention policy (one in Lisbon in March and another in Madrid in December).

These seminars were for national civil servants with fraud prevention responsibilities, the eventual aim being to cover all the Member States.

The popularity of these seminars (215 participants in Lisbon and nearly 250 in Madrid) is proof of their interest and value.

- Seminar on the implementation of Regulation (EEC, Euratom) No 1552/89 (February 1991).<sup>1</sup>

The main subjects covered were: the Commission's and Member States' respective responsibilities concerning controls of own resources; reporting of cases of fraud to the Commission and the findings of national investigations; and accounting for own resources (collected or awaiting collection).

- Seminar on mutual assistance and training in fraud prevention as related to direct aids under the EAGGF Guarantee Section (June 1991).

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<sup>1</sup> See above.

Among the subjects covered were the scrutiny of aids per hectare, remote sensing as a potential means of control, schemes for controlling premiums in the beef, sheepmeat and goatmeat sectors, and the identification and registering of livestock.

Two working parties were set up to allow exchanges of views on:

- (1) controls of direct aids in the livestock sector;
- (2) controls of aids per hectare.

. Seminar on risk analysis (Brussels, September 1991).

The seminar was attended by about 100 participants from Member States, the Commission and the Court of Auditors. The use of risk analysis for customs controls on imports and exports was described in presentations made by some of the Member States (Denmark, France, Netherlands, United Kingdom) and by the Commission. The Commission also described the SCENT system and its possible uses.

In addition, the Commission arranged seminars for its own staff:

. Internal Commission seminar for anti-fraud units (January 1991).

The purpose of the seminar was to stimulate constructive discussion on three main themes (organization; dissemination of information; fraud in the area of contractual expenditure).

A significant contribution towards training in 1991 was also made by the associations of European lawyers. The number of associations increased from four (Italy, Netherlands, Spain and United Kingdom) to ten and all the Member States except for Greece (pending) and Luxembourg are now covered. The main activity of these associations was to hold a series of seminars (in Cambridge, Florence and Rotterdam) focusing on mutual assistance in

legal matters, the comparative analysis of national investigative and prosecutorial systems, the role of the Community's various institutions and their powers to impose penalties. A number of other training seminars and courses were also held (Madrid, Parma, Bruges, London and Tilburg).

## **2.2 Matthaeus programme**

The Commission has carried out various measures under the Matthaeus programme - itself part of the wider framework of the Customs Union.

- . In two new phases of the programme, 403 national officials took part in exchanges for the dual purpose of training and developing contacts.
- . Eight seminars were held in 1991, including one on anti-dumping duties (14-15 November) which focused on:
  - national procedures for applying anti-dumping regulations and detecting irregularities;
  - cases of fraud presented by the Member States concerned.
- . A common training programme for new customs officials in the Member States was adopted.

## **3. Developments in computerized techniques and communication networks (points 26, 27, 29)**

Electronic transmission networks linked up to data bases are an effective way of exploiting data and considerable progress was made in this area during the year.

The development and extension of the computerized system for the rapid communication of information in the customs and agriculture sectors (SCENT) continued in several directions:

- agriculture (EAGGF);
- some internal services in Member States (at 31 December 1991, 27 additional terminals had been installed - four in Germany, five in Belgium, two in Denmark, one in Spain, two in France, one in Greece, two in Ireland, one in Italy, one in Luxembourg, five in the Netherlands, one in Portugal and two in the United Kingdom);
- some EFTA countries expressed interest in a link-up subject to a review of sensitive areas such as the protection of personal data.

There are also plans to incorporate a FAX interface in the SCENT system in view of the relative decline in the use of telex machines.

It was agreed, on the basis of a feasibility study, that the future Customs Information System<sup>1</sup> should use existing SCENT technology as the transmission vector. In practice, this would mean that those SCENT terminals already in place would give access to the system where compatible with the system distribution plan. Similarly, the 141 customs information terminals to be installed with Community financing (ECU 1.2 million) in the build-up to the internal market and the creation of large trans-European networks automatically give access to SCENT. The strategy for installing Community-financed terminals in customs offices is based on the policy of strengthening the effectiveness of controls at external frontiers on certain sensitive products (drugs, arms, etc.).

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<sup>1</sup> See Chapter 1, Section 2.1 of Title I.

These communications facilities will complement the legislative measures being taken within the framework of the Customs Union, facilitate cooperation and help achieve internal market objectives.

Substantial progress was made in 1991 on the IRENE (IRregularities, ENquiries, Exploitation) data base to improve the flow of information on irregularities in the areas of agriculture, own resources, mutual assistance and the structural Funds. Lately, work has concentrated on expanding the base's capacity. Forthcoming tasks include the incorporation of irregularities advised under Regulation (EEC) No 595/91, the production of tables, and improving the monitoring of recovery action. It is hoped that the data base will be fully operational by mid-1992.

#### 4. Elimination of tax frontiers and administrative cooperation in the field of indirect taxation

On 24 June 1991, the Council meeting on economic and financial affairs reached political agreement on indirect taxation in the run-up to 1 January 1993. The agreement concerned the approximation of VAT rates (a minimum standard rate of 15%) and minimum excise duty rates, the main purpose of the measures being to prevent trade distortions and the risk of fraud.

On 16 November 1991, the Council adopted the Directive on the transitional VAT regime<sup>1</sup> and reached political agreement on the proposal for a Directive on general arrangements for products subject to excise duty, which lays down rules on the collection of duty and the movement of products.

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<sup>1</sup> Council Directive 91/680/EEC of 16 December 1991 supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers, (OJ L 376, 31.12.1991).

The Regulation on administrative cooperation on indirect taxes was also the subject of a political agreement at the end of 1991 with a view to formal adoption in early 1992. The Regulation lays down:

- a common legal framework for administrative cooperation on VAT in respect of intra-Community trade in goods;
- a common system for gathering, storing and exchanging information used for controls on taxable persons within the framework of administrative cooperation on indirect taxation.

The provisions concerning the gathering of information for controls are contained in the directive on the transitional VAT arrangements. Those relating to the storage and exchange of information are contained in the regulation on administrative cooperation. Computers will be used for the storage and exchange of information. The broad structure of the computer networks was sketched out in a feasibility study completed at the end of 1991. The system will be put in place during 1992 and should be up and running by the beginning of November.

#### 5. Cooperation with non-member countries (point 37)

The Community's trade with non-member countries should not involve the risk of major fraud connected with the import, export or transit of goods. Resources are therefore needed to prevent and detect fraud and it is here that mutual assistance can play an important role.

In recent years, the Commission has taken steps to improve administrative cooperation with its main trading partners over and above what is laid down in some of the agreements (EFTA, Lomé Convention, Generalized System of Preferences, etc.), and these efforts were crowned with success in

1991. As regards the EFTA countries, a protocol was incorporated into the general agreement on the European Economic Area, which should come into force on 1 January 1993 after ratification by the European Parliament and by national parliaments. Another protocol was included in the EEC-Andorra agreement, which came into force on 1 July 1991, while, following the conclusion of the agreement between the Community, the Government of Denmark and the Home Government of the Faeroe Islands (Council Decision of 2 December 1991), an exchange of letters provided for a mutual assistance agreement on customs matters.

Furthermore, association agreements with some of the new democracies in Eastern Europe (Poland, Hungary and Czechoslovakia) were signed on 22 November 1991. Here again, once the European Parliament has given its assent, the agreements will need to be ratified by national parliaments.

In addition to the standard provisions on assistance, all these agreements contain detailed clauses on an area considered by the Member States and the Commission to be highly sensitive - data protection.

Certain improvements could, however, be made in the matter of strengthening controls. The subject is already being looked into and some points might come up for discussion in the Committee on Origin - for example, in the area of requests for ex post controls addressed by the Member States to the recipient countries where criteria for the term "reasonable doubt" need to be properly defined because national control systems vary so much.

### Chapter 3 - Counteraction

In the fight against fraud, preventive legislation by itself is not enough - more coercive measures are needed too.

This means imposing appropriate sanctions to ensure the Community's financial interests are legally protected - a subject that received close attention from the Commission during the year (points 6, 32, 39, 40, 44).

#### 1. Administrative sanctions

The proposal for a Council Regulation on the checks and penalties applicable under the common agricultural and fisheries policies<sup>1</sup> declares that the Commission's competence is founded on Articles 155 and 145 of the Treaty and on Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission,<sup>2</sup> two Articles of which deal specifically with penalties. Penalties not only have to be considered in the light of the judgment in Case 88/88,<sup>3</sup> but they should also entail unfavourable financial or economic consequences for operators who have received an unjustified benefit or who have failed to fulfill an obligation imposed by legislation, or who have refused to allow access or have put up any other kind of obstacle to the performance of the controls referred to in Article 3(3) of the proposal.

Germany, however, has instituted proceedings in the Court of Justice based on Article 173 (Case C 240/90) to secure a declaration that the provisions relating to penalties in Regulations (EEC) Nos 3007/84,<sup>4</sup> and 3813/89<sup>5</sup> are void on the grounds that the Commission is not competent to impose penalties.

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1 COM(90) 126 final (OJ C 137, 6.6.1990). Amended by COM(91) 378 final (OJ C 294, 13.11.1991).

2 OJ L 197, 18.7.1987.

3 See Section 3 of this Chapter.

4 Commission Regulation (EEC) No 3007/84 of 26 October 1984 laying down detailed rules for the application of the premium for producers of sheepmeat; OJ L 283, 27.10.1984, p.28.

5 Council Regulation (EEC) No 3813/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat; OJ L 289, 7.10.1989, p.1.

The point of law involved is an important one and affects the protection of the Community's financial interests; it therefore deserves close study.

The study begun by the Commission in 1990 on national systems for criminal and administrative penalties was continued. The first phase came to an end with the completion of 11 reports (all the Member States except Luxembourg) describing national administrative penalty procedures, the criteria for distinguishing between infringements carrying administrative penalties and those carrying criminal ones, and the principles generally applied. The last phase will consist of drawing up a final summary report in 1992 with a view to establishing some general principles applicable to the creation of an overall system of administrative penalties.

## 2. Penalties under customs law

The findings of the study on penalties for infringements of Community customs law were put into a final report and submitted to the Commission in December 1991. The main focus of the study was to improve understanding of the way in which Member States deal with infringements. Using the same format and the draft Community Customs code, the aim was to draw up an inventory of texts defining infringements of Community customs law and the penalties prescribed for them, and to review all relevant administrative regulations.

A number of points have emerged from the intermediate and final reports:

- the lack of uniform rules for penalizing irregularities gives rise to a number of risks (inconsistent treatment of fraudsters; diversion of traffic; detrimental effect on the yield of duties payable to the Community budget);

- the risks and differences in treatment mean that a practical solution to the problem is needed quickly.

### 3. The consequences of Case 68/88

All Member States have now replied to the request made by the President of the Commission on 7 June 1990 to give their reactions to the Court of Justice judgment in Case 68/88 according to which Member States should treat infringements of Community law as they do those of national law (principle of analogous treatment) and ensure that the penalty is both effective, proportionate and dissuasive.

From Member States' reviews of their own legislation to check on its compliance with the principles stated in the judgment, and the principle of analogous treatment in particular, it would appear that national legal systems are able to impose appropriate penalties for fraud against the Community budget, although some Member States have announced their intention to take the necessary steps to tighten up their legislation.

To supplement its information, the Commission has carried out inspections on how fraud affecting the Community is dealt with by national courts. The conclusions that have emerged will be of particular help in drawing up anti-fraud documentation.<sup>1</sup> The first inspection reports were on Italy and the United Kingdom; reports on Greece and Denmark followed in 1991, the remainder being scheduled for 1992.

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<sup>1</sup> See Chapter 1, Section 7 of this Title.

The problem of protecting the Community's financial interests given the many differences between national systems will be the subject of a detailed comparative study the Commission will be undertaking at the Council's request.<sup>1</sup> The study will focus on the concept of fraud, the nature of the offence, territorial scope, penalties and responsibilities.

Finally, the Treaty on European Union now embodies the principle of analogous treatment - one of the key points in the Court of Justice Judgment in Case 88/88 - in Article 209a of Title II, Article 78I of Title III and Article 183a of Title IV.

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The Commission welcomes the fact that both the Council of Ministers and Parliament have been especially active in the area of legal protection for the Community's financial interests.

Moreover, the Council meeting of 13 November 1991 referred to above was almost entirely devoted to the subject. The resolution which was adopted stressed the importance of stepping up the fight against fraud and suggested several ways of doing this; for example, by asking the Commission to undertake or continue studies to determine whether additional legal measures were needed.

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<sup>1</sup> Resolution of the Council and the representatives of the governments of the Member States meeting within the Council on 13 November 1991, concerning the protection of the Community's financial interests (91/C/328/01) OJ C 328, 17.12.1991.

Parliament too has been following these matters with great interest, as shown by its resolution of 24 October 1991<sup>1</sup> and at the meeting of the Committee on Budgetary Control on 27 November 1991.

Finally, the Treaty on European Union, which emerged from the European Council meeting in Maastricht (9-10 December 1991), not only refers to the principle of analogous treatment highlighted by the Court of Justice,<sup>2</sup> but also mentions fraud in Article K1 of Title VI (Provisions on cooperation in the fields of justice and home affairs), thereby laying down a basis for further action.

### TITLE III - FINANCING THE ANTI-FRAUD POLICY

After the substantial budgetary effort made in 1990, the budgetary authority seems to have decided on a policy of continuity, this being essential for dealing with such a sensitive area as the fight against Community budget fraud.<sup>3</sup>

Appropriations in the 1991 budget were only slightly down on the previous year (around ECU 72 million compared with ECU 74 million), clearly showing a continued commitment to the financial effort.

Significantly, most of the appropriations were of direct benefit to Member States: 91.2% of the appropriations were for preventive measures

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1 Resolution contained in the Theato Report for the Committee on Budgetary Control on the legal protection of the European Community's financial interests (A3 250/91) adopted on 24 October 1991; (European Parliament, Minutes of the sitting of 24.10.1991, OJ C 305, 25.11.1991).

2 See Chapter 3, Section 3 of this Title.

3 See Annexes 5 and 6 (analytical tables: measures financed with appropriations from the 1991 budget and breakdown of anti-fraud appropriations in the 1992 budget).

where it was possible to strengthen operational services or national structures (particularly the EAGGF - Guarantee Section under Regulations (EEC) Nos 4045/89; 307/91 and 595/91). Staff exchanges between national authorities (Matthaeus Programme) and the training policy (seminars) are part of this framework too.

The remaining 8.8% of appropriations went on support expenditure of various kinds, and were allocated to the various Commission departments responsible for combating fraud.

This expenditure mainly covers the cost of training for national officials, controls and investigations, the Lachaux Group, audit fees, computer facilities and anti-fraud databases, or sample analyses.

The utilization of appropriations in 1991 shows that execution of the budget was satisfactory and there were no delays such as those encountered in 1990 due to problems in adopting certain regulations. It should be noted that, since the beginning of 1991, the Commission now carries out a detailed monthly review of the status of appropriations so that departments are fully aware of what needs to be done to use up all the resources allocated by the budgetary authority. In addition, Member States have been encouraged to submit their requests for contributions as early as possible. As a result, the percentage of appropriations committed rose from 68% in 1990 to 96.5% in 1991.

The 1992 budget follows much the same path as its predecessor, give or take a few adjustments and the creation of some new headings. The total for anti-fraud appropriations is ECU 76.5 million.

## CONCLUSION

1991 was a year of continuity and new outlooks.

Continuity was the watchword in all the measures programmed and substantial progress was made. The support the Commission increasingly gives to its partners is further proof of this.

The machinery is now in place; investigations and missions are being carried out within the Member States and outside to help identify the nature of fraud, numerous measures are being undertaken in the fields of prevention, cooperation and counteraction, and there is much constructive input from Parliament and the Council of Ministers.

Much still remains to be done, and we must be careful not to be overtaken by current events in the fight against fraud. In addition to the internal market, the European Economic Area, the challenges posed by Eastern Europe and the reform of the CAP will all have a major impact. Besides monitoring the programmes already under way, the Commission will be focusing on the following areas in 1992:

- . the continuation and development of controls and investigations, especially in high-risk sectors;
- . the introduction of a new regulatory base for notification of cases of fraud relating to the structural Funds;
- . the continued simplification of agricultural regulations and the adjustment of controls within the framework of CAP reform;
- . the extension of mutual assistance;

- . developments relating to the elimination of tax frontiers and to administrative cooperation in the area of indirect taxation;
- . the legal protection of the Community's financial interests in the light of the Parliament and Council resolutions;
- . the revision and consolidation of the 45-point work programme, looking ahead to 1992 and beyond.

In 1992, the Commission intends to ensure that budget resources are closely monitored so the subject of fraud against the Community budget will continue to receive all the attention necessary.

It is these achievements and plans that the Commission now presents to its institutional partners.

MISSIONS OF INQUIRY IN NON-COMMUNITY COUNTRIES

Product Country	Period	Type of fraud	Quantity Value	Duties	Remarks
1. Azores, Iceland and fishery products 1. Peeled or whole shrimps Faroe Islands	14.08 to 05.10.91	False declaration of preferential origin granted to a territory	27 500 tonnes	ECU 10.5 m (difference btw. preferential duty collected and full duty)	Exact amount to be determined once actual destination of goods has been ascertained
2. Preserved fish Thailand	18.09 to 04.10.91	False declaration of GSP origin and species	98 000 tonnes and ECU 157 m	ECU 10 m (difference btw. preferential duty collected and full duty)	Withdrawal of certificates has been requested
3. Preserved fish Solomon Islands	13-24.09 91	False declaration of ACP preferential origin	1 000 tonnes ECU 2.96 m	ECU 0.71 m (full duty)	Results being processed
4. Preserved fish Fiji	27.05 to 13.08.91	False declaration of ACP preferential origin	245 000 cases and ECU 5.41 m	ECU 0.2 m (full duty)	Results being processed
5. Preserved fish Cote d'Ivoire	25.11 to 08.12.91	False declaration of ACP preferential origin	33 300 tonnes and ECU 70.833 m	ECU 17 m (full duty)	Results being processed

Product Country	Period	Type of fraud	Quantity Value	Duties	Remarks
Textile products					
6. Textile and clothing products Yugoslavia	27.05 to 07.08.91	False declaration of preferential origin granted to third country	ECU 18 m	ECU 2 m (full duty)	Results being processed and collection procedures under way
7. Textile products South Africa, Ciskei, Lesotho	18-19.10.91	False declaration of ACP preferential origin and misuse of import quotas	+ ECU 20 m	ECU 1 m	Results being processed
<b>TOTAL DUTIES</b>				<b>ECU 41.410 m</b>	

- 1. Missions are shown in the order in which they appear in the report.
- 2. The quantities, values and amounts shown are based on mission findings, i.e. on the situation of the goods when they were exported to the Community. The figures may be revised in the course of subsequent investigations to take account of the actual destination of the goods.
- 3. Owing to the legal time limits for carrying out the procedures, it has not so far been possible to obtain any information as to progress in collecting sums due.

GUARANTEE SECTION 1991  
IRREGULARITIES NOTIFIED AND PROGRESS WITH RECOVERY

(ECU million)

SECTOR	BELGIUM	GERMANY	DENMARK	FRANCE	GREECE	SPAIN	IRELAND	ITALY	PORTUGAL	NETHERLANDS	U.K.	EC TOTAL
CEREALS AND RICE	(3) 0.06	(2) 0.01	(1) 0.02	(17) 0.53	(2) 0.01	(2) 0		(2) 4.54	(5) 0.29	(14) 2.03		(47) 7.76
SUGAR & ISOGULOSE	(1) 0			(7) 0.07					(7) 0.23	(1) 0.01		(16) 0.31
OILS AND FATS				(1) 0.05	(3) 0.22			(24) 15.22	(1) 0.01	(2) 0.02		(31) 15.52
PROTEIN PLANTS	(2) 0.02	(1) 0.03	(15) 2.66	(1) 0	(7) 0.11				(12) 0.18	(1) 0.02		(39) 3.02
FRUIT & VEGETABLES	(1) 0			(2) 0.02	(2) 0.21			(24) 18.31	(2) 0.01	(1) 0.04		(32) 18.59
WINEGROWING PROD.				(23) 0.27	(3) 0	(1) 0						(27) 0.27
TABACCO									(2) 0.07			(2) 0.07
OTHER AGRIC. SECT.					(1) 0.03					(1) 0.04		(2) 0.07
MILK PRODUCTS	(30) 1.3	(5) 0.04	(14) 0.16	(7) 0.16	(35) 0.8	(1) 0.02	(6) 3.7		(24) 1.6	(7) 1.08		(129) 8.88
BEEF AND VEAL	(2) 0.58	(5) 2.79	(4) 1.08	(7) 1.62	(3) 0.20	(7) 0.04			(8) 0.94	(72) 0.03		(108) 7.56
GOAT/SHEEPMEAT					(1) 0	(4) 0.04			(5) 0	(16) 0.08		(26) 0.13
PIGMEAT	(18) 2.57		(7) 0.05		(4) 0.07				(5) 0.03			(34) 2.72
EGGS & POULTRY			(2) 0.03	(3) 0.02	(1) 0.01				(8) 0.29	(1) 0.11		(15) 0.46
NON-ANNEX II PROD.	(1) 0.03	(1) 0.03	(4) 0.08	(4) 0.02			(1) 0		(1) 0.01	(16) 0.32	(9) 0.83	(39) 1.33
MCA				(1) 0.03					(5) 0.07		(8) 0.2	(14) 0.3
MCB				(7) 0.13			(1) 0			(2) 0	(1) 0.13	(11) 0.26
OTHER SECTORS					(1) 0.01						(1) 0.01	(2) 0.02
TOTAL	(24) 3.23	(41) 4.17	(24) 1.33	(101) 5.56	(14) 0.17	(64) 1.7	(10) 0.06	(56) 41.77	(16) 0.16	(93) 3.98	(131) 5.11	(574) 67.24
AMOUNTS RECOVERED	0.02	0.22	1.12	3.1	0	0.29	0	2.27	0.07	0.81	1.47	8.74
AMOUNTS LOST	0	0	0	0	0	0	0	0.32	0	0	0.73	1.05

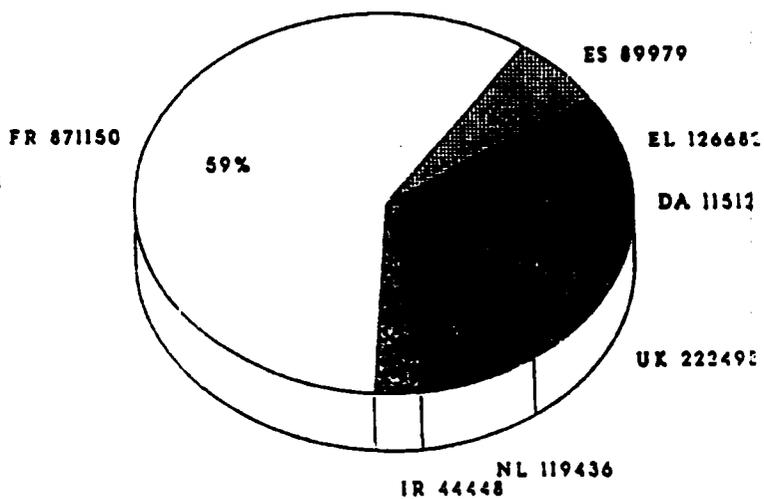
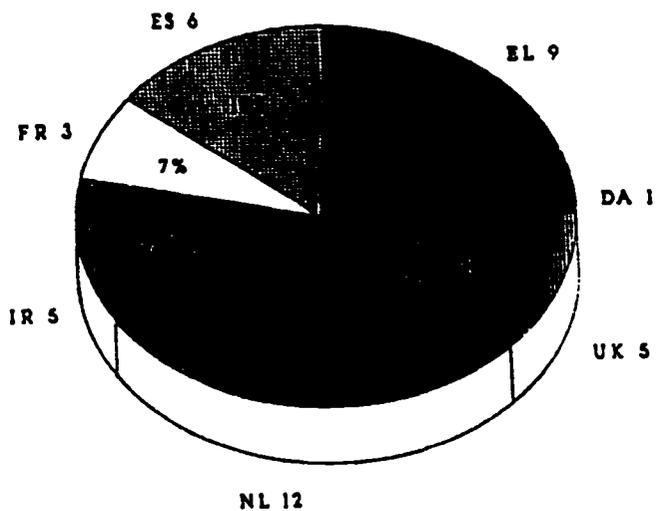
NB : Figures in brackets refer to the number of cases. Luxembourg did not report any cases.

ANNEX 3

EAGGF + ESF + ERDF

Number of cases  
41

ECU  
1 485 700



**ANTI-FRAUD POLICY**  
**COMMISSION WORK PROGRAMME**

Measures and planned dates*	Action already taken	Action still to be taken
<p><b><u>1. PREVENTION</u></b></p> <p><b><u>1.1 Simplification of legislation</u></b></p> <p>1. Setting-up of a group of experts to review agricultural legislation (second half of 1989)</p>	<p>Commission Decision of 28 March 1990 (SEC(90)539).</p> <p>First meeting of the group chaired by Mr Lachaux on 31 March 1990.</p> <p>Recommendation made by the group concerning:</p> <ol style="list-style-type: none"> <li>1. regulations on refunds for the use of starch;</li> <li>2. arrangements for compensation payments for sheep;</li> <li>3. nomenclature of agricultural products in accordance with the system used for petfoods;</li> <li>4. TS control copy.</li> </ol> <p>Revision of Regulation No 570/88 of 16 February 1988 on measures for the disposal of butter for use in the manufacture of pastry products. On 3 May 1991 the Commission adopted Reg. No 1157/91, also on butter for pastry products (OJ L 112, 4.5.1991).</p>	<p>Work to be spread over three years.</p> <p>Preparation of reports and recommendations to the Commission on the simplification of legislation.</p> <p>Further examination of ways of simplifying legislation as part of the reform of the CAP.</p>

\* The dates shown in this column are for the start and not the end of the measure.

Measures and planned dates	Action already taken	Action still to be taken
<p>2. Rationalization of the differentiated refund arrangements (second half of 1989)</p>	<p>Reduction in the number of headings in the export refund nomenclature</p> <ul style="list-style-type: none"> <li>- beef and veal (Reg. No 1468/89 of 26 May 1989; OJ L 144, 27.5.1989; Reg. No 3445/89 of 15 November 1989; OJ L 336, 20.11.1989; Reg. No 998/90 of 20 April 1990; OJ L 101, 21.4.1990);</li> <li>- fruit and vegetables (Reg. No 99/90 of 15 January 1990; OJ L 12, 16.1.1990; Reg. No 233/90 of 29 January 1990; OJ L 26, 30.1.1990);</li> <li>- wheat and rye flour (Reg. No 3236/90 of 8 November 1990; OJ L 310, 9.11.1990).</li> </ul>	<p>The review will continue in all sectors.</p> <p>Review of milk sector now in progress (rationalization of nomenclature, particularly for cheeses, on the basis of the results of a study).</p> <p>Ongoing operation.</p>
<p>3. Finalization of the draft Community Customs Code (proposal for a regulation forwarded to the Council in December 1989)</p> <p>4. Measures to simplify Community transit arrangements (end of first half of 1989)</p>	<p>Proposal for a Community Customs Code sent to the Council on 21 March 1990 (OJ C 128, 23.5.1990).</p> <p>Amended proposal forwarded to the Council on 27 March 1991 (OJ C 97, 13.4.1991).</p> <p>On 22 February 1990 the Council adopted Reg. No 474/90 (OJ L 51, 27.2.1990). Entry into force: 1 July 1990.</p>	<p>Formal adoption by the Council scheduled for end of 1992. It is likely that a common position will be adopted in the first half of 1992.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>5. Possible tightening-up of legislation on anti-dumping duties (end of first half of 1989)</p>	<p>On 17 September 1990 the Council adopted Reg. No 2726/90 on the overall reform of the transit procedure (OJ L 262, 26.9.1990), to apply from 1 January 1993. Commission Reg. No 2920/90 of 10 October 1990 (OJ L 279, 11.10.1990) entered into force on 1 March 1991 (use of a document other than T2L). Council Regs. of 21 March 1991 (OJ L 78, 26.3.1991) No 717/91 (Single Administrative Document) and No 719/91 (TIR and ATA carnets as transit documents). On 12 June 1991 the Commission adopted Reg. No 1593/91 laying down implementing rules (OJ L 148, 13.6.1991). Council Reg. No 3648/91 of 11 December 1991 repealing Regs. No 3609/86 and No 4283/88 (OJ L 348, 17.12.1991). Council Reg. of 19 December 1991 (OJ L 374, 31.12.1991) on suppression of baggage controls and formalities. Council Directive 91/342 of 20 June 1991 (amending Dir. 83/643).</p> <p>A seminar involving representatives from the Member States was held in June 1989 to analyse the difficulties encountered in fraud prevention in connection with anti-dumping duties. A seminar was held on 14-15 November 1991 in Brussels as part of the Matthaëus programme (see point 31).</p>	<p>The Commission must report to the Council by 1 October 1992, with a view to implementation of Reg. No 2726/90 on 1 January 1993 (Article 47).</p> <p>A regulation laying down rules for the application of Reg. No 2726/90 must be adopted. A regulation laying down rules for the application of Reg. No 717/91 must be adopted.</p> <p>A regulation laying down rules for the application of Reg. No 3925/91 must be adopted.</p> <p>Permanent monitoring necessary.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>1.2 <u>Introduction of appropriate controls and administrative sanctions</u></p> <p>6. Harmonization of the rules on CAP controls</p>	<p>1. A list of all control measures and sanctions has been drawn up and guidelines for future action have been laid down. These were approved by the Commission on 12 July 1990 (SEC(90)1381) and distributed to the Member States. Operation completed.</p> <p>2. Most of the recent agricultural regulations contain provisions relating to controls and sanctions.</p> <p>3. A proposal for a regulation on CAP controls and sanctions has been sent to the Council (COM(90)126 final: OJ C 137, 6.6.1990).</p>	<p>2. Operation to be continued, draft legislation to be checked systematically in accordance with procedure set down at point 13.</p> <p>3. Adoption by the Council.</p>
<p>7. Revision of the proposal for a regulation on monitoring the payment of amounts granted in respect of exports of agricultural produce (first half of 1990)</p>	<p>On 12 February 1990 the Council adopted Reg. No 386/90 (OJ L 42, 16.2.1990). On 17 July 1990 the Commission adopted Reg. No 2030/90 laying down implementing rules (OJ L 186, 18.7.1990). Pursuant to Article 7 of Reg. No 386/90, the Commission is preparing a progress report for the Council on the implementation of the regulation. To this end, Member States were asked to complete questionnaires, so that any necessary amendments could be made.</p>	<p>Decision on what action is to be taken in the light of the report.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>8. Adoption of specific rules on granting of export refunds in beef/veal sector (first half of 1989)</p> <p>9. Re-examination of concept of proof of arrival at final destination of exported agricultural products as defined by Regulation No 3665/87 (second half of 1989)</p>	<p>This item is covered by a more wide-ranging review (see point 2). Operation completed.</p> <p>On 9 February 1990 the Commission adopted Reg. No 354/90 amending Reg. No 3665/87 as regards proof of arrival at destination, with deletion of Annex II (OJ L 38, 10.2.1990).</p>	<p>Permanent monitoring is necessary. A number of documents are being considered for inclusion in a "proof-of-importation" file. Amendments to Article 18 (proof of arrival) are being discussed in the Committee for Trade Mechanisms. (The discussions concern the use of certificates issued by supervisory bodies for release for home use in non-member countries.)</p>
<p>10. Amendment of Directive 77/435 with a view to tightening ex post controls on EAGGF-financed operations (first half of 1989)</p>	<p>On 21 December 1989 the Council adopted Regulation No 4045/89 replacing Directive 77/435 (OJ L 388, 30.12.1989).</p> <p>On 29 June 1990 the Commission adopted the implementing rules (Reg. No 1863/90: OJ L 170, 3.7.1990). The format of both the standard forms (Article 7) and the presentation files (Article 10) has been finalized.</p>	<p>Report on the implementation of the inspections carried out between 1 July 1990 and 30 June 1991.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>11. Measures to improve operation and monitoring of public storage on basis of findings of Member States working party (presentation to the Council in the first half of 1989)</p>	<p>Reform of the flat-rate system for financing storage costs. Operation completed. Reg. No 3247/81 was repealed by Council Reg. No 3492/90 of 27 November 1990 laying down the factors to be taken into consideration in the annual accounts for the financing of intervention measures in the form of public storage by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (OJ L 337, 4.12.1990) A memorandum was sent to the Member States setting out practical arrangements relating to Commission Reg. No 618/90 of 14 March 1990 laying down rules for drawing up the annual inventory of agricultural products in public storage (OJ L 67, 15.3.1990).</p>	
<p>12. Assessment of the susceptibility to fraud of contractual expenditure and possible measures to be taken (second half of 1989)</p>	<p>Survey of the various items of expenditure. A seminar was held in Brussels in January 1991 on contractual expenditure for Commission departments. A working party was set up to examine the susceptibility to fraud of contractual expenditure and met twice in 1991.</p>	<p>Ongoing operation.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p><u>1.3 Assessment of applicability and controllability of regulations</u></p> <p>13. Definition of procedures for preventing fraud and introduction of preventive control system (first half of 1989)</p>	<p>On 30 April 1990 the Commission adopted an internal procedure to be applied throughout the agricultural and fisheries sectors (SBC(90)793).</p> <p>A new version of the financial statement has been designed with a section on anti-fraud measures.</p>	<p>Ongoing operation.</p> <p>The Financial Controller will systematically examine all new agricultural legislation. Possible extension to other sectors.</p> <p>Ongoing operation</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>14. Audit of national systems for combating fraud (second half of 1989)</p> <p>15. Setting-up of working party to oversee harmonization of procedures for administering and monitoring financial assistance from structural Funds (first half of 1989)</p>	<p>Following the report by the external consultant and a reappraisal of the project, a small Commission working party was set up, one of the members of which is a researcher from the European University Institute Florence. The working party is now in the process of gathering information on the national systems which may then be entered into the DAF base (see point 28).</p> <p>The guidelines have been drawn up and were approved by the Commission on 17 December 1989.</p> <p>These guidelines (financial rules) are now operational and are appended to each Commission decision on the granting of assistance.</p> <p>Commission departments have been cooperating on a report on improvements to the mechanisms and procedures for implementing the reform of the structural Funds.</p>	<p>Ongoing operation</p> <p>Ongoing operation.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>16. Constitution of working party to define rules for implementing Article 23(1) of Regulation (EEC) No 4253/88 of 19 December 1988 (first half of 1989)</p>	<p>On 1 August 1990 the Commission presented to the Member States its code of conduct for the notification of cases of fraud affecting the structural Funds. The code was published in OJ C 200, 9.8.1990.</p> <p>The relevant national authorities duly notified the Commission of fraud cases and other irregularities, using the form which they had been sent on 31 August 1990.</p> <p>Exchange of views with the Member States at the COOLAF meeting of 23 October 1991.</p> <p>On 13 November 1991, the Court gave judgment in Case 303/90, annulling the code of conduct.</p>	<p>Cases notified by the Member States to be examined and assessed. Data bank to be set up (IRENE.3). (Ongoing operation).</p> <p>Decision on what action is to be taken in the light of the Court's judgment (proposal for a regulation).</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>17. Audit of national arrangements for monitoring operations under the structural Funds (second half of 1989)</p>	<p>A manual has been drawn up for the Commission auditors. An inspection manual has been prepared for use by the Commission and the Member States. On-the-spot inspections have been carried out and reports written.</p>	<p>The programme of on-the-spot inspections is to be continued in 1992. Approximately 30 inspections are planned.</p>
<p>18. Inquiry into the conditions under which Member States grant aid for private storage in the beef/veal sector (first half of 1989)</p>	<p>On-the-spot inquiries completed. Further information was obtained (through exchanges of views with national authorities) before final conclusions were drawn. Operation completed.</p>	<p>Solution to be proposed when accounts are cleared.</p>
<p>19. Inquiry into risks of fraud in connection with ewe premiums in some Member States (first half of 1989)</p>	<p>Tightening of national controls by changes to on-the-spot arrangements. The programme of special controls was continued and the improvements made to systems in the Member States already visited were examined. Operation completed.</p>	<p>Solution to be proposed when accounts are cleared.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>20. Inspection of procedures and methods available to the Member States for determining numbers of cattle and sheep qualifying for premiums (second half of 1989)</p> <p>21. Possible creation of new national departments or agencies (second half of 1989)</p>	<p>The Member States visited so far have been urged by the Commission to improve their management procedures.</p> <p>On 27 January 1990 the Council adopted Regulation No 200/90, which broadens the scope of the tasks assigned to olive oil agencies by including the consumer subsidy and public storage (OJ L 22, 27.1.1990). Operation completed.</p> <p>The Commission put forward a proposal for a Council regulation amending Reg. No 2262/84 laying down special measures in respect of olive oil (the proposed regulation gives greater powers to agencies and lays down financing arrangements). COM(91)269 final, 26.7.1991; OJ C 206, 7.8.1991.</p> <p>Agencies may also be set up under the regulations on the tightening of EAGGF controls (See point 35).</p>	<p>The Commission will subsequently check the systems set up.</p> <p>Regulation to be adopted by the Council.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>22. Gradual involvement of specialized firms in activities carried out by Member States (second half of 1989)</p> <p>23. Introduction of specific control measures in wine-growing sector (second half of 1989)</p> <p>24. Survey on application of Regulation No 283/72 concerning irregularities in CAP (second half of 1989)</p> <p>25. Clarification of concept of irregularity in Article 3 of Regulation No 283/72 (first half of 1989).</p>	<p>The Regulation on the tightening of EAGGF controls provides for the use of surveillance firms (Council Regulation No 307/91 of 4 February 1991 OJ L 37. 9.1.1991. (See point 35).</p> <p>On 19 June 1989 the Council adopted Regulation No 2048/89 (OJ L 202, 14.7.1989). The first batch of officials have been recruited to the control body and the first missions to Member States have been carried out.</p> <p>Surveys carried out in all Member States. Operation completed.</p> <p>The findings were taken into account in drawing up Council Regulation No 595/91 of 4 March 1991 repealing Regulation No 283/72 (OJ L 67, 14.3.1991).</p> <p>The EAGGF Irregularities and Mutual Assistance Working Party has reached agreement on the interpretation of the concept of irregularity (working paper VI/680/89 presented to the Working Party on 7 April 1989). Operation completed.</p>	<p>Ongoing operation.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>11. <u>Cooperation</u></p> <p>2.1 <u>Improving channels of communication and analytical methods</u></p> <p>26. Generalized use of the SCENT system by the Member States (nearing completion)</p> <p>27. Extension of capacity of IRENE data base (starting in the second half of 1989)</p>	<p>All the Member States now use the SCENT system.</p> <p>The network has been extended in all Member States and now includes some economic and fiscal research departments.</p> <p>It has also been extended to cover agriculture. Certain EFIA countries have shown an interest in joining the network.</p> <p>At 31 December 1991, 27 additional terminals had been installed in the Member States.</p> <p>SCENT will be used for information for the Customs Information System.</p> <p>Work on the implementation of the multi-sector database covering agriculture, own resources, mutual assistance and structural Funds, will be completed.</p>	<p>It will soon be possible to use SCENT in conjunction with a fax machine.</p> <p>The training programme for users is to continue.</p> <p>Work is to continue on the new form referred to in Regulation No 595/91 and on the continual improvement of the system, particularly with regard to the monitoring of the amounts to be recovered and the production of tables. It is hoped that implementation will commence in 1992.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>28. Creation of DAF in conjunction with audit of national systems (feasibility study by end of 1989)</p> <p>29. Gradual expansion of capacity of instruments for assessment of fraud, in conjunction with IRENE data base (second half of 1989)</p>	<p>- A prototype has been developed by the Joint Research Centre and demonstrated to Commission staff.</p> <p>- A feasibility study has been completed and distributed amongst potential users within the Commission.</p> <p>The basic functions are now available via the IRENE 3 system, making it possible to carry out statistical analyses of notified cases.</p>	<p>System to be operational in 1993.</p> <p>Further improvements will be made to meet the specific needs of users.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>2.2 <u>Stepping up cooperation between Commission and national fraud prevention departments</u></p> <p>30. Stepping up administrative cooperation between customs departments and the Commission (in progress)</p> <p>31. Training for national customs officials under MATTHAEUS programme, with view to consequences of single market (beginning in 1990)</p>	<p>Development of mutual assistance (Reg. No 1468/81).</p> <p>On 20 June 1991 the Council adopted a decision setting up the Matthaeus programme, following the pilot project in 1990. In 1991, 403 officials took part in exchanges and ten seminars were organised. 1991 also saw the adoption of a joint training programme for customs officials of the Member States undergoing basic training.</p>	<p>Continuation of cooperation with Member States within the framework of mutual assistance.</p> <p>Updating of Regulation No 1468/81 with a view to reinforcing such forms of assistance as are necessary for full implementation of the customs union and the single market.</p> <p>Training operations to be continued and expanded. Special joint in-service training programmes for customs officials to be introduced.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>32. Seminar on legal protection of Community's financial interests (November 1989)</p>	<p>Seminar held from 27 to 29 November 1989. Operation completed.</p> <p>Follow-up to seminar:</p> <ol style="list-style-type: none"> <li>1) Study (in progress) on systems of administrative and criminal sanctions in the Member States;</li> <li>2) Review (in progress) of way in which national courts (Italy, Ireland, United Kingdom, Netherlands Greece and Denmark) treat cases of fraud affecting Community funds (see point 44.)</li> </ol>	<p>Study to be finalized in 1992.</p> <p>Ongoing operation in the other Member States: visits will be completed during the course of 1992.</p>
<p>33. Seminar on the falsification of papers and supporting documents (second half of 1989)</p>	<p>Seminar held at Ispra from 18 to 20 October 1989 with experts from investigation departments of Member States. Operation completed.</p>	
<p>- Programme of training and seminars for 1990/91</p>	<p>Six seminars held in 1990 on controls and fraud prevention.</p>	
<p>- Programme of training and seminars for 1991/92</p>	<p>Six seminars held in 1991 including two on anti-fraud policy (one in Lisbon in March and another in Madrid in December) and one on risk analysis, in Brussels on 26 and 27 September 1991. (See point 31).</p>	<p>Ongoing operation.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>2.3 <u>Incentives</u></p> <p>34. Study on sharing of financial losses between Member States and Community (second half of 1989)</p> <p>35. Financial contributions to strengthen national control departments and to meet some costs of recovering amounts wrongly paid (new measures)</p>	<p>In progress at Commission.</p> <p>1. On 21 December 1989 the Council adopted Reg. No 4045/89 (OJ L 388, 30.12.1989).</p> <p>2. On 4 March 1991 the Council adopted Reg. No 595/91 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field and repealing Reg. No 283/72 (OJ L 67, 14.3.1991) (see point 24).</p> <p>3. On 4 February 1991 the Council adopted Reg. No 307/91 on reinforcing the monitoring of certain expenditure chargeable to the Guarantee Section of the EAGGF (OJ L 37, 9.2.1991). The implementing rules are laid down in Commission Regulation No 967/91 of 19 April 1991 (OJ L 100, 20.4.1991).</p> <p>4. On 29 October 1990 the Council adopted Reg. No 3151/90 on stepping up the checks in Portugal on expenditure charged to the EAGGF Guarantee Section (OJ L 302, 31.10.1990). Operation completed.</p>	<p>Study still to be finalized.</p> <p>Ongoing operation.</p> <p>Ongoing operation.</p>

Measures and planned dates	Action already taken	Action planned to be taken
<p>36. Charging to Community budget of financial consequences of failing to recover amounts wrongly paid</p> <p>2.4 <u>Expanding possibilities of Community intervention in relations with non-member countries</u></p>	<p>For the first three quarters of 1991, the amount lost accounts for 3% of the amounts wrongly paid (i.e. 97% have already been or will be recovered).</p>	
<p>37. Conclusion of mutual assistance agreements with Community's main trading partners (first half of 1989)</p>	<p>EFTA countries: a mutual assistance agreement was incorporated, as a protocol, into the general agreement on the European Economic Area. Joint EBC/Andorra committee decision No 6/91 of 18 June 1991 (mutual assistance from 1 July 1991). Mutual assistance protocols have been concluded with Poland, Hungary and Czechoslovakia.</p>	<p>General agreement on the European Economic Area to be ratified by 1 January 1993.</p> <p>Entry into force from 1 March 1992 by way of temporary agreement.</p> <p>New negotiations.</p>
<p>38. Inclusion in Lomé IV of provisions guaranteeing ACP cooperation on cases of fraud involving agricultural exports (under negotiation, to be completed by end of 1989)</p>	<p>A clause has been inserted which enables the Commission to participate in on-the-spot investigations under the rules of origin (Lomé IV Convention signed on 15 December 1989, Protocol No 1). Operation completed.</p>	

Measures and planned dates

Action already taken

III. Counteraction

3.1 Additional protection for the Community's financial interests

39. Adoption of draft Treaty on criminal law protection of Community's financial interests and prosecution of infringements of Community law (in progress)

The strategy to be adopted after the Court's ruling in Case 68/88 is now being examined. A notice concerning the judgment of the Court of Justice in Case 68/88 was published OJ C 147 on 16 June 1990.  
The President of the Commission sent a letter to the Member States on 7 June 1990 (SG(90)D/22700).  
All Member States have replied and some provided additional information.

The Council's ad hoc Working Party on the Court of Justice and Protection under Criminal Law resumed its activities.

Ad hoc Working Party of Government Experts (criminal and Community law), set up within the framework of political cooperation.  
On 13 November 1991 the Council meeting on Justice passed a resolution on the protection of the Community's financial interests.

Guidelines will be adopted in the light of the replies received from the Member States.

The conclusions of the study on national systems of administrative and legal penalties and of the comparative study, called for at the meeting of the Council on Justice, should be ready by the first quarter of 1993.

Measures and planned dates	Action already taken	
<p>40. Inclusion in Community rules of concept of subsidy fraud (second half of 1989)</p> <p>3.2 <u>Consolidating and extending Commission's supervisory powers</u></p> <p>41. Clarification, in conjunction with national authorities, of scope and aims of new rules contained in Regulations No 1552/89 and No 1553/89 on own resources (operation began in June 1989)</p>	<p>This matter is now being studied in the light of the replies received from the Member States (See point 39).</p> <ol style="list-style-type: none"> <li>1. Seminar held in 1991 in Brussels on the new ideas in Regulation No 1552/89.</li> <li>2. New ideas discussed by ACOR.</li> <li>3. On-the-spot checks carried out.</li> <li>4. Thesauri for the IRENE 3 base finalized.</li> <li>5. Cases notified in accordance with Art. 6(3) of Reg. No 1552/89 before or during the second half of 1991 (approx. 1000) have now been fed into the system.</li> </ol>	<p>A decision on the fundamental issues to be taken once all factors have been considered. A definition of what constitutes fraud is still required (see resolution passed at the meeting of the Council (Justice) on 13 November 1991) (See point 39).</p> <p>Seminar on implementation of Regulation No 1552/89.</p> <p>Report on implementation of Reg. No 1552/89 and possible amendments.</p> <p>Ongoing operations.</p> <p>Production of IRENE 3 tables relating specifically to own resources.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>42. Analysis and assessment of fraud prevention measures taken by national authorities, on basis of information obtained under new Regulation on traditional own resources.</p>	<p>Implementation of Article 4 of Reg. No 1552/89 (the required information has been forwarded to the Commission). The national authority responsible and the national provisions in force have been identified. Implementation of Article 6(3) of Reg. No 1552/89 (the Commission has used information, concerning fraud in particular, in deciding what checks to carry out).</p>	<p>Follow-up to anti-fraud measures. Permanent updating of national regulations and departmental reorganization.</p>
<p>43. Scrutiny of national VAT controls in accordance with Regulation No 1553/89.</p>	<p>Analysis of the replies to a questionnaire sent to the Member States in 1990 on national VAT recovery and control procedures and on possible improvements in this area. Fact-finding missions sent to all Member States.                      First three-yearly report in accordance with Article 12 of Reg. No 1553/89, dealing with three main topics:                      1. problems with national VAT collection and control systems;                      2. ways in which the Member State can tackle these problems;                      3. the Commission's recommendations, particularly those concerning ways of improving procedures for combating VAT fraud.</p>	<p>Action to be taken in response to the first three-yearly report.</p>

Measures and planned dates	Action already taken	Action still to be taken
<p>44. Stepping-up of cooperation with national judicial bodies (ongoing measure)</p>	<p>The Commission took part in the Congress on European Fraud Prevention which was held for Belgian and Dutch magistrates in Rotterdam on 19 and 20 April 1990.</p> <p>Visits and discussions with judicial bodies on legal protection for the Community's financial interests (See point 32).</p> <p>Establishment (in ten Member States) of Associations of European Lawyers for the legal protection of the Community's financial interests.</p> <p>Introduction is being considered in another Member State. Training courses have been organized in Madrid, Parma, London, Bruges and Tilburg and seminars have been held in Cambridge, Florence and Rotterdam.</p>	<p>Operations to be continued.</p> <p>Operation to be continued.</p>
<p>45. Increased recourse to firms specializing in auditing and controls, and to private experts (ongoing measure).</p>	<p>Recourse to auditing firms and external experts:</p> <ul style="list-style-type: none"> <li>- for certain on-the-spot checks on EAGGF matters;</li> <li>- for on-the-spot checks on expenditure and costs charged to certain research contracts.</li> </ul> <p>(See also point 35.3.)</p>	<p>Operation under way.</p>

MEASURES FINANCED WITH APPROPRIATIONS FROM 1991 BUDGET

Part	Chapter Article Item	Title	Measures financed	1991		%
				Appropriations available*	Appropriations committed	
A	3531	Controls, studies, analyses in connection with the fight against fraud.	- Tightening of controls; application of Reg. 4045/89 - Seminars, meetings - Conferences, meetings of associations of European lawyers + contribution to running costs - Missions - SCENT (Agriculture)	5 200 000	5 154 519	99.12
A	354	Tax harmonization and computerized customs network for fraud prevention.	- SCENT - TARIC - Community transit - BTI	1 200 000	1 199 900	99.99
A	355	Coordination of customs and tax inspections.	- Mattheus and Interflac	2 337 000	2 337 000	100

\* Appropriations available are those entered in the budget other than for Articles A-355 and A-455, for which transfers have been made, without altering the total for the two articles (ECU 2 700 000).

Part	Chapter Article Item	Title	Measures financed	1991		%
				Appropriations available*	Appropriations committed	
A	4530	Support expenditure for UCLAF.	- Missions, meetings	200 000	184 206	92.10
A	4531	Support expenditure for A-3531.	- data processing - seminars, meetings - missions - studies and audits - staff - working parties on simplification of agricultural legislation - miscellaneous	3.431.000	3.138.352 731 500 119 420 106 000 589 969 1 231 812 344 490 15 161	91.47
A	454	Support expenditure for A-354.	- Systems back-up, hardware and software purchases, TARIC I, updating bases, BTI, SCENT translations.	2 000 000	1 989 815	99.49
A	455	Support expenditure for A-355.	- Staff, back-up, compiling a guide.	363 000	363 000	100

\* Appropriations available are those entered in the budget other than for Articles A-355 and A-455, for which transfers have been made, without altering the total for the two articles (ECU 2 700 000).

Part	Chapter Article Item	Title	Measures financed	1991		
				Appropriations available	Appropriations committed	%
B 1	360	Measures to combat fraud affecting the EAGGF Guarantee Section.	21 000 000	20 100 000	95.71	
		- Reg. 595/91 (repealing Reg. 283/72)		100 000		
		- Reg. 307/91 (tightening controls; EAGGF Guarantee Section expenditure)		20 000 000		
B 2	5110	Measures to control and combat fraud.	36 036 000	34 845 415	96.69	
		- Reg. 2262/84 (olive oil)		13 350 000		
		- Reg. 2392/86 (vineyard register)		21 495 415		
B 8	2510	Support expenditure for B2-5110.	364 000	313 469	86.11	
		- Support for vineyard register				
TOTAL			72 131 000	69 625 676	96.52	

• Appropriations available are those entered in the budget other than for Articles A-355 and A-455, for which transfers have been made, without altering the total for the two articles (ECU 2 700 000).

ANNEX 6

BUDGET ITEMS / THE FIGHT AGAINST FRAUD

<u>Item</u>	<u>Title</u>	<u>1992 appropriations</u>	
TOTAL			76 556 000
<u>Part A</u>			
A-2554	Conferences, congresses and meetings in connection with the activities of the associations of European lawyers for the protection of the financial interests of the Community		270 000
A-3530	Unit to coordinate action against fraud	46 000	200 000
A-4530	Expenditure in support of the Unit to coordinate action against fraud (A-3530)	- 154 000	
A-3531	Controls, studies, analyses in connection with the fight against fraud	5 655 000	8 772 000
A-4531	Expenditure in support of controls, studies, analyses in connection with the fight against fraud (A-3531)	3 117 000	
A-3532	(New) Action to combat fraud involving textiles (TAFI)		p.m.
A-4532	(New) Expenditure in support of action to combat fraud involving textiles (TAFI)		p.m.
A-354	Tax harmonization and computerized customs network for fraud prevention	2 860 000	6 500 000
A-454	Expenditure in support of tax harmonization and computerized customs network for fraud prevention (A-354)	3 640 000	
A-355	(New) European documentation, coordination and study network to control cross-border crime and fraud		750 000

Part B

B1-360	Measures to combat fraud affecting the European Agricultural Guidance and Guarantee Fund, Guarantee Section		21 000 000 <sup>1</sup>
B2-102	Measures to combat fraud affecting the European Agricultural Guidance and Guarantee Fund, Guidance Section - agriculture		p.m.
B2-111	Measures to combat fraud affecting the European Agricultural Guidance and Guarantee Fund, Guidance Section - fisheries		p.m.
B2-121	Measures to combat fraud affecting the European Regional Development Fund		p.m.
B2-131	Measures to combat fraud affecting the European Social Fund		p.m.
B2-5110	Measures to control and combat fraud	36 000 000	} 36 364 000
B8-2510	Expenditure in support of measures to control and combat fraud	364 000	
B5-3051	Community action programme concerning vocational training for customs officials (Matthaeus programme) and tax officials	2 427 000	} 2 700 000
B8-5351	Expenditure in support of Matthaeus programme and programme for tax officials	273 000	

<sup>1</sup> An appropriation of ECU 15 million has been entered in Chapter B0-40.

STAFF ORGANISATION CHARTS

SECRETARIAT GENERAL  
Directorate G

Coordination of the fight against fraud

DIRECTOR : 1 grade A

Secretariat 2 grade C

Administration 1 grade B

Archives 1 grade C

ADVISOR : 1 grade A

Training, seminars, studies  
and relations with the media

Secretariat : as per sector I

SECTOR I : General affairs

Head of sector 1 grade A

Secretariat 2 grade C

Personnel 1 grade A on detachment in Lisbon (E.C.  
office)

1 grade A temporary agent

2 detached national experts

Duties

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General and horizontal affairs ; legal questions ; relations with the Council and the Court of Auditors ; seminars/conferences, training, development of an informal network of magistrates, relations with Parliament (quarterly COCOBU reports, written and oral questions, work programme, reports, publications, interservice committee, Committee for the coordination of Fraud Prevention with member States (COCOLAF), budgetary questions (antifraud budget), experts, consultants, studies.



DIRECTORATE GENERAL VI  
Unit VI.G.4

HEAD OF UNIT 1 grade A

Secretariat 4 grade C  
2 grade C auxiliaries  
2 grade C temporary staff

VEGETABLE PRODUCTS (INTERVENTION), CONTROL AGENCIES

Coordination 1 grade A

Personnel 4 grade A  
1 detached national expert

Duties

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Olive oil, AAO, ACACSA and CEEE agencies, regulation on strengthening of controls, Agecontrol.

Fresh and processed fruit and vegetables, flowers and horticultural products.

Wines, alcohol, tobacco, hops, potatoes, other specialised farming.

Remote sensing, set aside, citrus cultivation and vineyard registers ; oil seeds, textile and protein plants, regulation on integrated controls, cereals and processed products ; rice and sugar.

ANIMAL PRODUCTS (INTERVENTION)

Coordination 1 grade A

personnel 1 grade A  
2 grade B  
1 grade A temporary agent

Duties

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Dairy products other than butter and butteroil ; sheep meat, pork, fish and poultry, butter and butteroil ; beef meat.

EXCHANGES

Coordination I 1 grade A

Duties

-----

Imports, MCM, MCA, customs systems, analysis, simplification

Coordination II 1 grade A  
Personnel 3 grade B  
3 detached national experts

Duties

-----

Coordination, refunds.

FINANCIAL AND BUDGETARY MATTERS, GENERAL AFFAIRS

Coordination and budget 1 grade A  
Personnel 2 grade B  
1 grade C auxiliary  
1 grade C temporary  
1 detached national expert

Duties

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COMA 35, SCENT, annual report.  
Application of regulations 4045/89 and 595/91.  
Financial matters, reports, contracts, missions, archives.  
Statistics and budget : general support and archives.

WINE INSPECTORS

Personnel 8 grade A

FRUIT AND VEGETABLE INSPECTORS

Personnel 5 grade A auxiliaries

N.B. : Unless otherwise stated (e.g. temporary agent, auxiliary) the officials are "fonctionnaires".

DIRECTORATE GENERAL XIX

Unit XIX/B/4

HEAD OF UNIT

1 grade A

Secretariat

1 grade C

Personnel

2 grade A

2 grade B

1 detached national expert

Duties

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Monitoring of horizontal aspects of regulations relative to own resources ; implementation of specific anti-fraud measures provided for in these regulations.

DIRECTORATE GENERAL XX

Unit XX.1

HEAD OF UNIT 1 grade A

Secretariat 1 grade C

FOLLOW-UP OF FRAUDS 1

Deputy head of unit 1 grade A

Duties

-----

Own resources, refunds, MCA and ACA, customs problems, exchange mechanisms, agri-monetary affairs.

FOLLOW-UP OF FRAUDS 2 1 grade B

Duties

-----

Common organisations of agricultural markets, structural funds, common Fisheries Policy, energy, industry, technology, research, cooperation and food aid.

DIRECTORATE GENERAL XXI

Unit A.2

HEAD OF UNIT

1 grade A

Secretariat

2 grade C

1 grade C auxiliary

FIGHT AGAINST CUSTOMS FRAUD

(Regulations 1468/81 and 616/78)

Personnel

4 grade A

1 grade A auxiliary

1 detached national expert

2 grade B

2 grade B temporary agents

1 grade C

Duties

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Agricultural products, industrial products, textile products, SCENT computer network, Fraud help-desk, agreements with third countries, legal questions, liaison with international organisations, general questions, contacts with Parliament,...

Fight against fraud in the area of indirect tax

Personnel

1 detached national expert

Fight against illicit drug trafficking and other sensitive products

Personnel

2 grade A

4 detached national experts

Duties

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Precursors (Reg. 3677/90)

Mutual assistance groupe (MAG and MAG 92), customs information system (CIS), Naples Convention, export controls, customs strategy post 92

International relations (UNO, G.7, C.C.C., Interpol...)