

# Report of the European Anti-Fraud Office

## Summary version

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



Rue Joseph II 30  
B-1000 Bruxelles  
Internet : <http://ec.europa.eu/olaf>

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## Executive Summary



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

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

## Foreword

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

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

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

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

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

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

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

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

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

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

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# 1 OLAF's mission and working methods

## 1.1 Mission statement

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

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

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

## 1.2 The main competencies of OLAF

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

## 1.3 OLAF's resources

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

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

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

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

## 1.4 The Case Management System

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

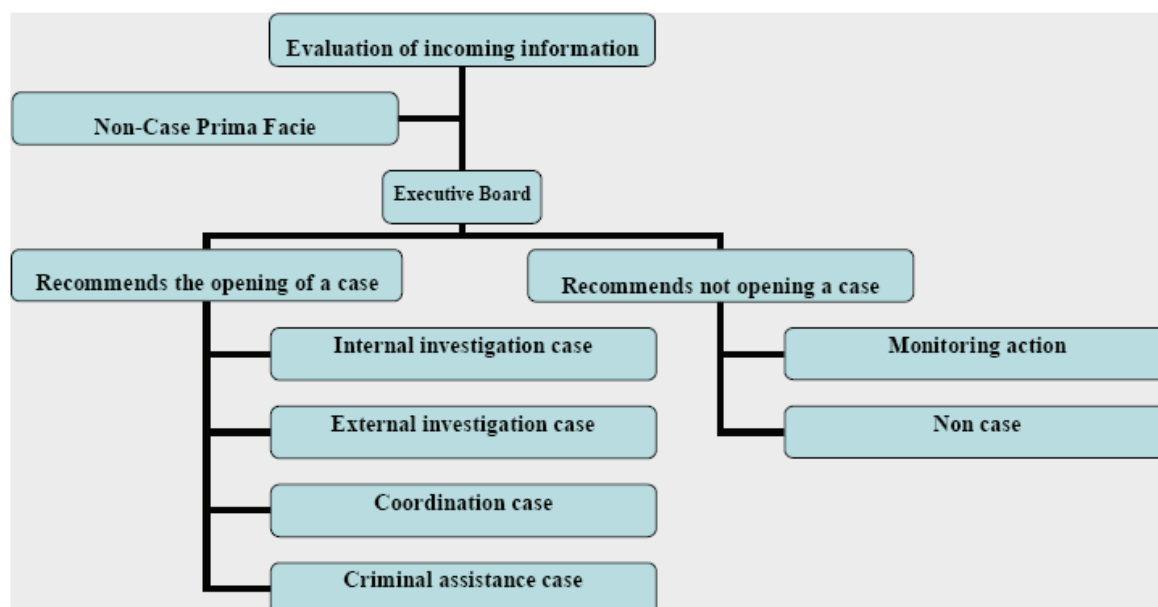
## 1.5 The Investigations and Operations Executive Board

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

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

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

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



Once the operational activity has been completed in an open case in accordance with formal procedures and approved by the Board, the case moves to the follow-up stage<sup>3</sup> if necessary. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up stage is formally closed and any associated EC entities<sup>4</sup> or other parties are informed of the outcome.

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

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

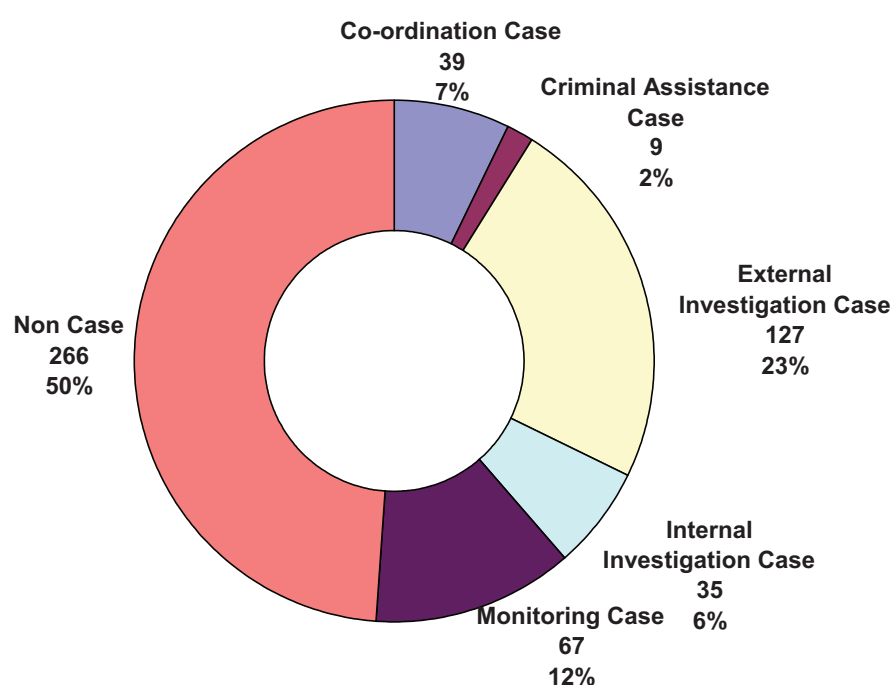
## 2 OLAF's workload

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

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

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

**Chart A: Decisions taken in 2007**



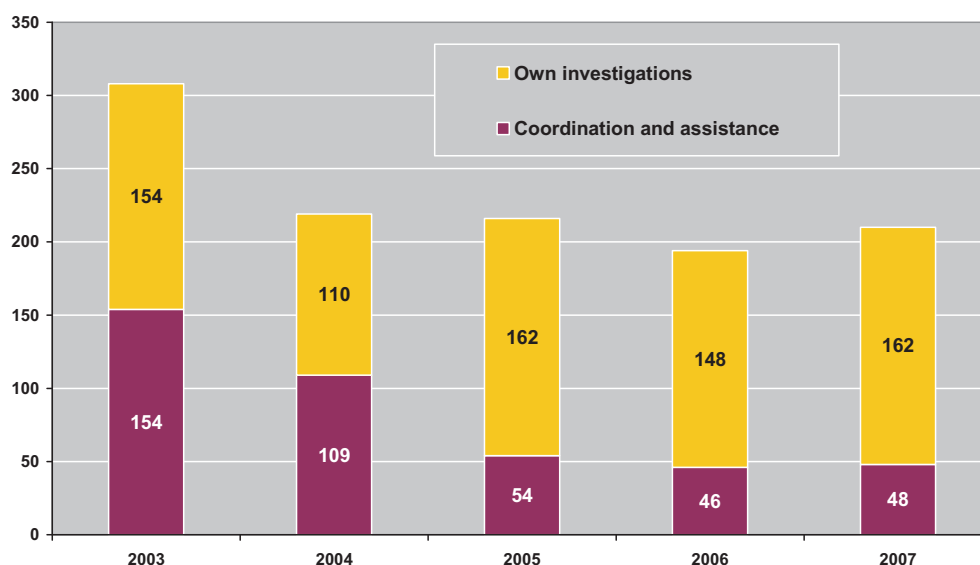
### 2.2 Operational activity: prioritising and focusing on core business

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

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

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

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

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

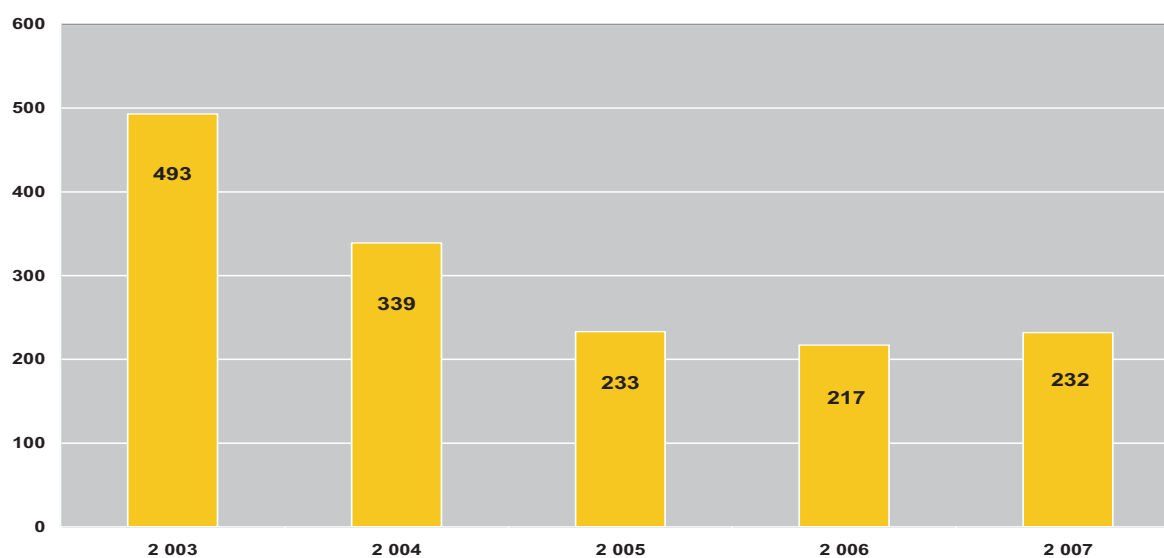
**Chart C** gives a breakdown of the 210 opening decisions adopted in 2007. *Direct Expenditure* and *External Aid* cases represent a growing proportion of the new cases opened by OLAF – up from 30% in 2005 to 36% in 2007. Together with *Internal investigations* (16.6%), these areas of activity, where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

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

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

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

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

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

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

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

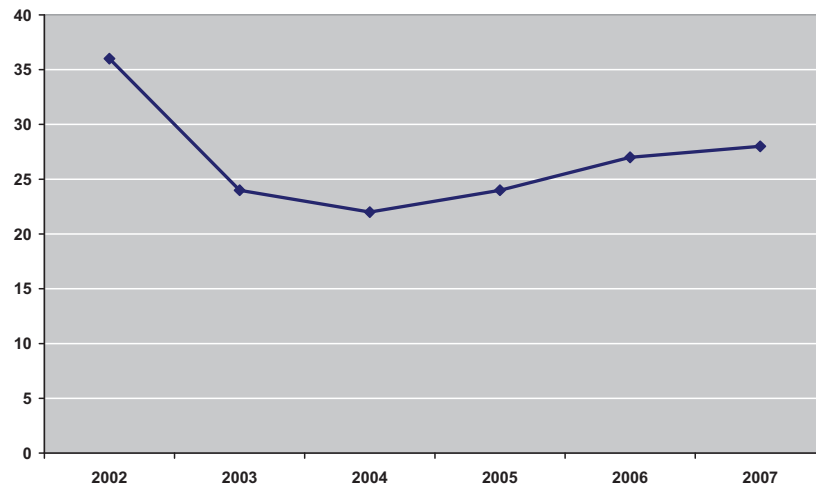
	2003	2004	2005	2006	2007
<b>Cases opened</b>	308	219	214	195	210
<b>Cases closed</b>	493	339	233	216	232
<b>Clearance rate</b>	0.625	0.646	0.918	0.903	0.905

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

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

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

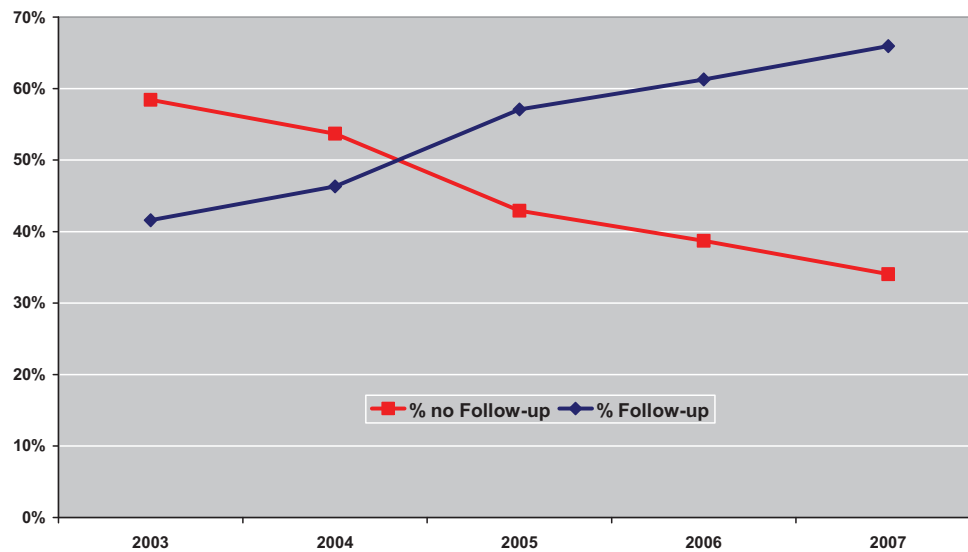
**Chart F: Duration in months of active stage of investigations completed in each calendar year**



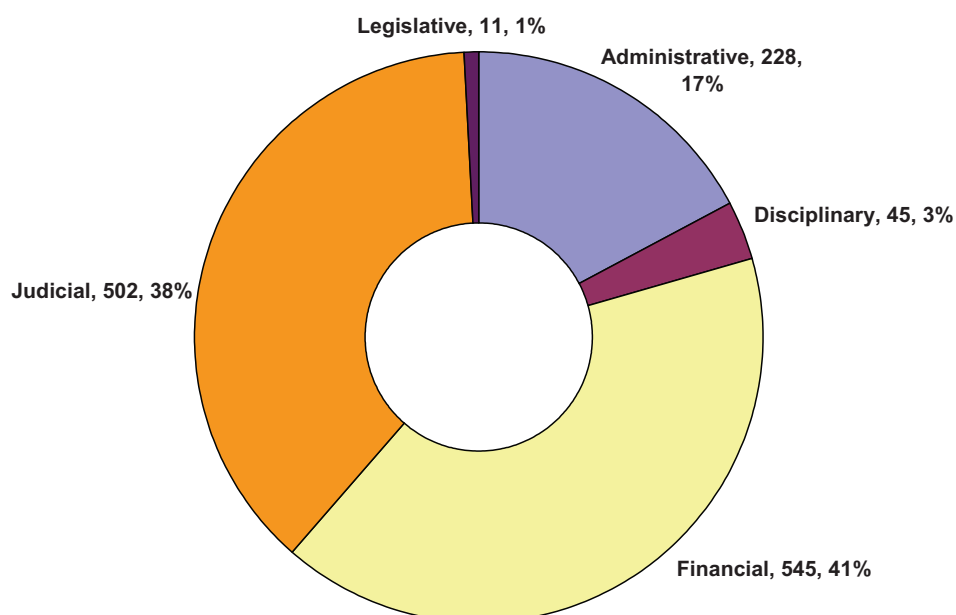
### 2.3 Follow-up activity

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

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



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

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

## 2.4 Recovery

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

### 4.1 Cooperation with Member States

#### 4.1.1.1 Joint Customs Operations

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

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

#### 4.1.1.2 Agreements with cigarette manufacturers

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

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

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

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

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

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

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

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

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

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

#### **4.2.1 Eurojust**

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

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

#### **4.2.2 Europol**

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

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

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

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

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

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

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# 1 OLAF's mission and working methods

## 1.1 Mission statement

The mission of the European Anti-Fraud Office (OLAF) is to protect both the financial interests of the European Union, and therefore of its citizens, and the reputation of the EU institutions. OLAF performs its activities with integrity, impartiality and professionalism respecting individuals' rights and freedoms.

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

The Community budget is financed by tax paid by citizens of the EU. The policies so financed are intended to implement projects of general benefit. Evasion of the taxes, duties and levies which fund the Community budget or the improper use of funds provided by the Community budget therefore harms both European taxpayers and the entire European project.

It is the responsibility of the European institutions to guarantee that the best use is made of taxpayers' money and to fight fraud as effectively as possible. This is why OLAF was established in 1999.

OLAF achieves its objectives by:

- investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European institutions;
- assisting Community and national authorities in their fight against fraud;
- through deterrence, prevention and strengthening legislation, making it more difficult for fraud and irregularities to occur and so contributing to public trust in the European project.

## 1.2 OLAF's main powers and responsibilities

OLAF's task is to conduct in full independence, internal and external administrative investigations as provided for in Articles 3 and 4 of Regulation (EC) No 1073/99.<sup>1</sup> The legal basis for Community action against fraud is Article 280 of the EC Treaty<sup>2</sup>.

Since OLAF is part of the Commission, it is able to exercise Commission powers. However, OLAF has budgetary and administrative autonomy, designed to make it operationally independent. The legal framework includes two structures to reinforce OLAF's operational independence: guarantees associated with the post of OLAF's Director-General, and the Supervisory Committee.

As regards its investigative activities, OLAF is independent of the Commission. The opening, conduct and closing of a case is a matter for the Director General of OLAF alone. OLAF investigators operate under his authority and control.

OLAF staff act as agents of the Commission subject to its internal rules and powers as far as activities such as general administration, participation in the Commission's legislative and policy initiatives and international cooperation are concerned.

<sup>1</sup> OJ L 136, 31.5.1999, pp. 1 and 8. Where reference is made to Regulation No 1073/99, this also applies to the equivalent Euratom Regulation.

<sup>2</sup> For more details, see OLAF's activity Report for 2006 at [http://ec.europa.eu/anti\\_fraud/reports/olaf\\_en.html](http://ec.europa.eu/anti_fraud/reports/olaf_en.html)

A Supervisory Committee composed of five outside experts provides independent oversight of OLAF's operational activities, so as to guarantee OLAF's independence in the conduct of investigations. The Committee monitors the implementation of OLAF's investigative function without intervening in operational activity. OLAF cooperates with the Committee under the authority of the Director-General.

On 17 October 2007 the Supervisory Committee delivered its Activity Report covering the period from December 2005 to May 2007. The Director-General of OLAF emphasised in his reply to the Report that he appreciated the constructive approach pursued by the Supervisory Committee.

In addition, the Supervisory Committee issued two Opinions on specific issues in 2007, one on the 'OLAF's reports on investigations that have been in progress for more than nine months' and one on 'OLAF's Preliminary Draft Budget for 2008'. OLAF followed up both opinions. In response to the Opinion on the nine-month reports OLAF strengthened control of case management and introduced a new form for the nine-month reports which fully implements the Supervisory Committee's proposal. In response to the Opinion on the Preliminary Draft Budget OLAF gave detailed explanations orally to the Committee.

### 1.3 OLAF's organisational structure

OLAF was restructured in September 2006 to take account of the main lessons drawn from the experience gained since its creation in 1999.

Directorates A and B both deal with investigations and operations. A third Directorate (C) provides support functions for investigations and operations, such as intelligence, legal and technical advice, and follow-up on cases. It also draws on the Office's increasing operational experience to improve fraud prevention and other anti-fraud actions. A fourth Directorate (D) groups OLAF's general management and policy functions, but also contributes directly to operations by maintaining a dedicated database and other record systems.

Most of the resources are deployed in OLAF's core remit: investigations and operational activity. About 70% of OLAF staff<sup>3</sup> is occupied with tasks related to the Office's operational activity including administrative support for operational activity (63% if administrative support staff is excluded). On 31 December 2007 there were 467 persons working in OLAF of whom 333 were statutory staff (208 were permanent officials and 125 temporary agents).

OLAF's organisation chart as at 1 April 2008 can be found in Annex I.

### 1.4 The Investigations and Operations Executive Board

The Investigations and Operations Executive Board ('the Board') assists the Director-General by giving advice on the handling of cases. Board members include representatives of the relevant Directorates. The Board considers evaluation reports prepared by the relevant units and recommends whether or not a case should be opened. The Director-General or one of the Directors acting on his behalf decides whether to accept the recommendation.

The Board considers and advises the Director General on each major stage in the lifecycle of cases: opening; decisions on "non-cases"; changing case types; closing; opening new follow-up paths; and

<sup>3</sup> Approximate figure based on an estimate of the time devoted by each member of staff to a task which contributes to the achievement of the Office's operational activity. Some OLAF staff carry out both operational tasks and tasks which are related to OLAF's other activities. This is the case in particular of units working on follow-up, administration and intelligence.



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

Once the operational activity has been completed in an open case in accordance with specific formal procedures and approved by the Board, the case moves to the follow-up stage<sup>4</sup> where this is necessary. Follow-up includes various activities designed to ensure that the competent Community and national authorities have carried out the administrative, financial, legislative, judicial and disciplinary measures recommended by OLAF. Once all measures have been taken and the follow-up of the case has been completed, the follow-up stage is formally closed and any associated EC entities<sup>5</sup> or other parties are informed of the outcome.

Since the reorganisation of OLAF in 2006, the Board has met in two separate formations, one for each operational Directorate.

### A. Evaluation of initial information

Every item of initial information received by OLAF is assessed in order to make a recommendation as to whether a case should be opened and, if so, which category of case. The initial evaluation of a case should normally be completed within two months of receiving the initial information, but can be extended if circumstances so justify.

### B. When the Board recommends opening a case

When the Board recommends that a case should be opened, it is classified under one of the following four categories:

- **Internal investigations:** Internal investigations are administrative investigations within the Community institutions and bodies for the purpose of detecting:
  - fraud, corruption, and any other illegal activity affecting the financial interests of the European Communities;
  - serious matters relating to the discharge of professional duties that constitute a dereliction of the obligations of officials and other servants, members of the institutions and bodies, heads of offices and agencies, or members of staff, and liable to result in disciplinary or criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or members of the staff of institutions, bodies, offices or agencies not subject to the Staff Regulations.
- **External investigations:** External investigations are administrative investigations outside the Community institutions and bodies for the purpose of detecting fraud or other irregular conduct by natural or legal persons. They may be carried out under either horizontal or sectoral legislation. Cases are classified as external investigations where OLAF provides the majority of the investigative input.
- **Coordination cases:** OLAF contributes to investigations carried out by national authorities or other Community departments by facilitating and stimulating the gathering and exchange of information and contacts, as well as by encouraging authorities to work together through coordinated action. This ensures operational synergy between the relevant national and Community departments.

<sup>4</sup> In some circumstances follow-up activities may take place before the formal closure of the investigation stage.

<sup>5</sup> Institutions, bodies, offices and agencies.

- **Criminal assistance cases:** Criminal assistance cases are cases within the legal competence of OLAF in which the competent authorities of a Member State, candidate country or third country carry out a criminal investigation and request OLAF’s assistance or OLAF offers its assistance.

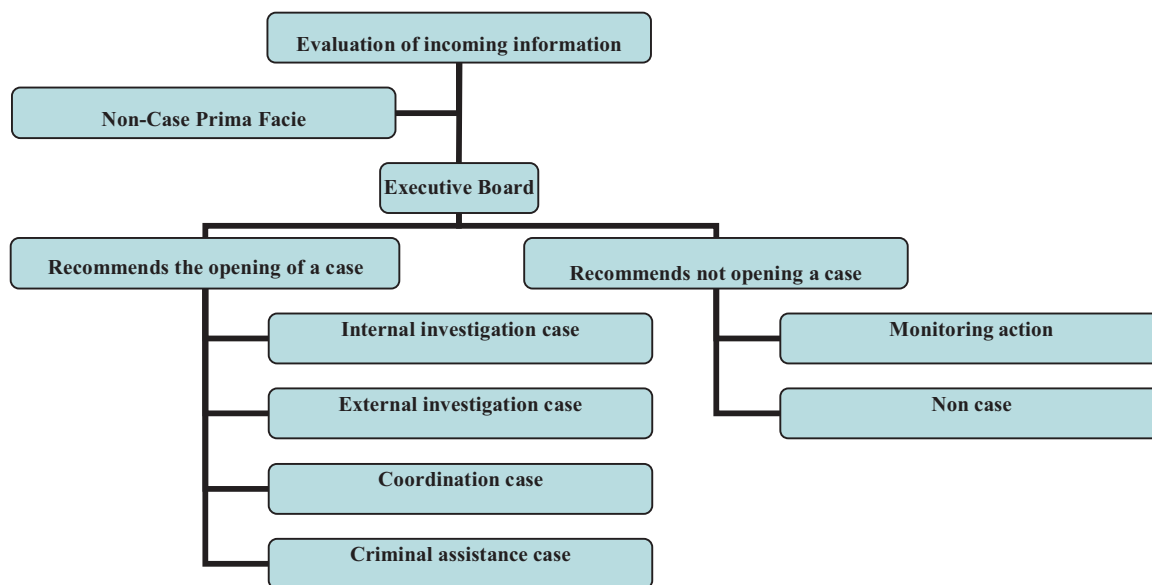
**C. When the Board recommends not opening a case**

If the Board is of the opinion that a case should not be opened, it may recommend either undertaking a monitoring action or classifying the matter as a ‘non- case’:

- **Monitoring action:** OLAF may decide not to open an external investigation but rather to monitor investigations carried out by national authorities, where the financial interests of the European Community are at stake, with a view to opening a case at an appropriate stage, if this is needed.
- **Non-cases:** A matter is classified as a non-case where there is no need for OLAF to take any investigation, coordination, assistance or monitoring action. Non-cases result from evaluations that conclude that EU financial interests appear not to be at risk from irregular activity, or other relevant factors indicate that no case should be opened. This process may result in the transmission to Member States of information about possible offences unrelated to the protection of EU financial interests.

Where information is received which clearly and unequivocally does not fall within the competence of OLAF, then the relevant Head of Unit may propose not to refer the information for evaluation. This information does not reach the Board and is classified as a “**non case prima facie**”. This is what is known as the **simplified procedure**.

The diagram below presents the whole process from the initial stage in which the information is received by OLAF to the final stage in which the decision is adopted by the Director-General.



**1.5 The Case Management System (CMS)**

The CMS is used by operational staff to manage operational cases and related activities. The system contains information relating to OLAF’s new, ongoing and closed operational cases. It is the primary source of operational information within the Office; this information is also used for intelligence and

management purposes. Monthly management reports are produced and circulated to the management team. These reports have been restructured since 2006 to allow managers to focus on key performance indicators, which were revised after the recommendations of the European Court of Auditors (ECA) in its report 1/2005.

Access to the data contained within the CMS is strictly controlled on a need-to-know basis: staff may only have access to CMS data if there is a compelling business need (also see 5.9.1 on the Data Protection Officer).

## **1.6 Reform of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)**

European Parliament and Council Regulation (EC) No 1073/1999 and Council Regulation (Euratom) 1074/1999 confer on OLAF powers to conduct internal investigations and also all of the Commission's powers to conduct external investigations

On 24 May 2006, the Commission adopted a proposal to amend this Regulation.<sup>6</sup> This proposal is aimed at improving the governance and effectiveness of the Office and its procedures. It is currently being examined by Parliament and the Council under the co-decision procedure. This revision of OLAF's legal framework should strengthen the legal basis and procedural safeguards for the activities of the Office.

In the course of 2007, OLAF continuously supported the discussions with the European Parliament and the Council on the adoption of proposal COM (2006) 244.

## **1.7 The implementation of recommendations made by the European Court of Auditors in its report on the European Anti-Fraud Office**

Special Report No 1/2005,<sup>7</sup> concerning the management of the European Anti-Fraud Office, adopted by the Court of Auditors on 9 June 2005, put forward a number of recommendations for improving of the organisation and working methods of OLAF. Following progress made in 2006, OLAF made considerable efforts to address the challenges identified by the Court, and a large part of the recommendations has already been implemented.

An action plan was created to address the accepted recommendations. The implementation of the action plan is closely monitored by OLAF management and by the Commission. Of the 18 actions points drawn up to follow-up on the recommendations of the Court of Auditors:

- 7 actions have been implemented or are in the finalisation stage;
- 2 actions have been partly implemented;
- 5 actions are ongoing / permanent;
- 4 actions are still pending subject to the adoption of the revised Regulation No 1073/1999 (see paragraph 1.6 above).

Cooperation between the European Court of Auditors (ECA) and OLAF was significantly strengthened in 2007 in order to improve mutual understanding of their respective roles and tasks and to share experience and know-how. In January 2007, a high-level meeting took place between the

<sup>6</sup> Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), COM(2006) 244 final.

<sup>7</sup> Special Report No 1/2005 concerning the management of the European Anti-Fraud Office (OLAF), together with the Commission's replies OJ C 202, 18.8.2005.

Director-General of OLAF and the President of the ECA. Following a visit by one of OLAF's Investigation directorates to the Court of Auditors in June 2007, a joint ECA-OLAF workshop was organised in December 2007 to discuss external actions.

Since 2006, the organisational structure of OLAF has changed to enable it to focus on core activities and to improve the management and supervision of its operational work (see paragraph 1.3). In order to enhance the efficiency of operations and investigations, OLAF has refined performance indicators against which the achievement of objectives is measured and has improved operational statistical data and final reporting. Action is also being taken to control the average duration of cases. The limited strategic intelligence resources are being used to pinpoint high risk areas where new cases may be identified. Training, particularly of investigators, has been increased.

Some important issues were tackled in 2007, as planned. These included an agreement with the Commission and with the relevant staff associations, reached in early 2007, on a package of measures to ensure stability of staffing, notably through making indefinite contracts available to OLAF temporary agents under certain circumstances. A ***Time Management System*** was introduced on 1 April 2007 for the whole Office to improve measurement of the staff's actual workload, and to enhance its overall efficiency. Investigative procedures have been set out in the OLAF Manual.

## 2 Statistical trends in operational activities (2003-2007)<sup>8</sup>

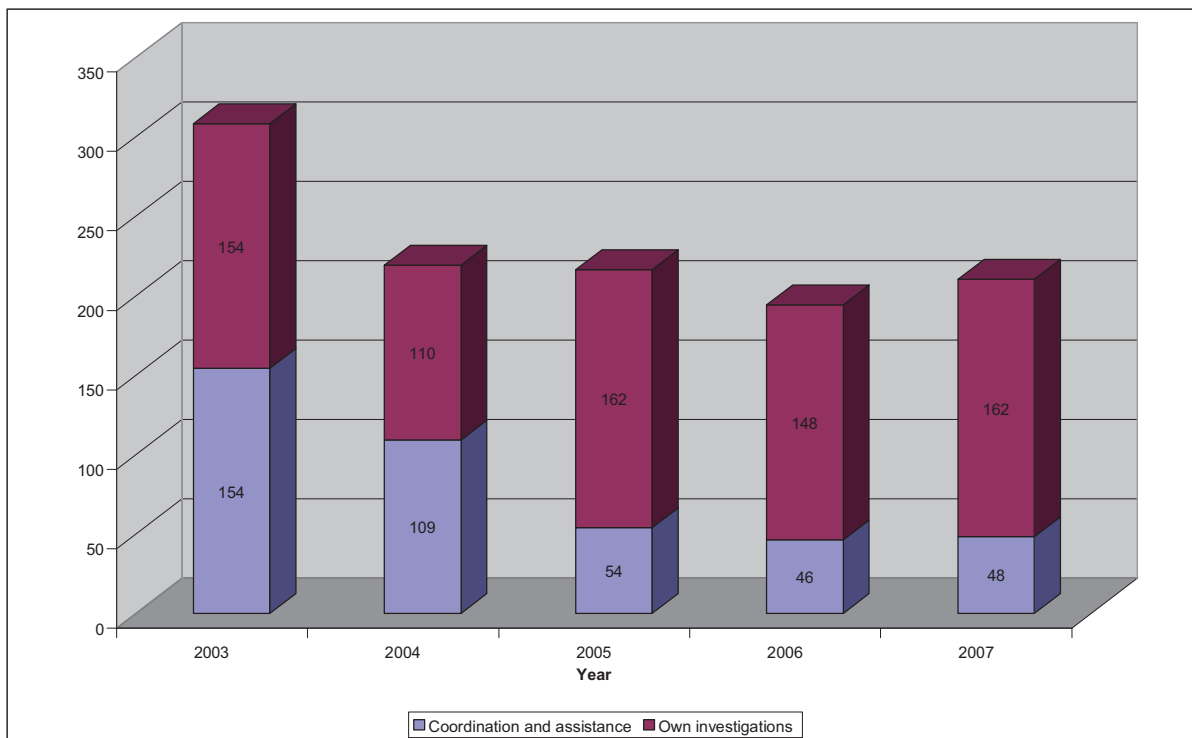
### 2.1 General trends

The volume of information received by OLAF has risen steadily since 2003. At the same time, the average length of standard evaluations, after a sharp decline, increased again in 2007. Since the introduction of the simplified procedure for “non cases prima facie”, the Board is required to assess only information containing allegations falling within the competence of the Office.

Since 2004, the number of OLAF’s own investigations has caught up with and overtaken the number of cases in which OLAF assists national authorities (see **Chart 1** below) to the point where ‘own investigations’ account for 75% of cases opened, compared with 25% for ‘coordination and assistance’ cases.

Areas in which Member States do not exercise specific responsibilities — ‘Direct Expenditure’ and ‘External Aid’ cases — represent a growing proportion of the new cases opened by OLAF (up from 30% in 2005 to 36% in 2007).

**Chart 1: Number of opening decisions by year and nature of the investigation**



The proportion of cases closed with follow-up has continued to increase, and now represents more than 65% of all cases closed, compared with less than 45% before 2004 and 61% in 2006.<sup>9</sup> This confirms that OLAF is increasingly focusing on serious cases. The majority of follow-up work is still financial recovery and judicial follow-up, which accounted for more than 75% of total follow-up

<sup>8</sup> The last five calendar years (2003-2007) have been chosen as a reference period for identifying the main trends in OLAF’s operational activity

<sup>9</sup> See **Chart 24**.

activities undertaken by the Office in 2007. In the same period, the number of administrative follow-up<sup>10</sup> cases remained quite steady and has now consistently represented a share of 15% to 20% of total OLAF follow-up activities for more than four years.

The amount of information sent to OLAF tends to increase over time (up 59% since 2003 and up nearly 8% since 2006). This trend is primarily explained by the fact that more informants are coming forward, as the number of referrals from this source has increased by 20% since 2005. This encouraging development may be interpreted as the result of increased awareness of OLAF among the general public and the Member States.

## 2.2 Trend analysis

**Chart 2** shows the level of incoming information over the past five calendar years.<sup>11</sup>

The volume of information received has steadily increased since 2002 and rose for the fifth consecutive year (by 8%). This growth was supported by a sharp increase in the number of referrals to OLAF from informants, Member States and from the freephone network.

Informants include: witnesses; anonymous sources, media and trade sources; and whistleblowers. In this context, a whistleblower is defined as an EU official or other EU staff member (temporary, auxiliary, local, or contract staff, or special advisers) who comes forward to OLAF with information they have discovered in the course of or in connection with their duties concerning matters which may be within OLAF's competence. Unlike informants, EU officials and other EU staff are under a legal obligation to come forward with such information.

In 2007 OLAF received eight new items of information from whistleblowers who sought protection under the provisions of the Staff Regulations.

These data are further detailed in **Chart 15**.

*Chart 2: Number of initial items of information received per year*

2003	2004	2005	2006	2007
559	662	802	822	886

Each initial item received by OLAF is subject to a thorough evaluation leading to a recommendation as to whether a case should be opened or not and, if opened, into which category it falls.

The evaluation period is calculated from the date of receipt of the information to the date of the recommendation made by the Board to the Director-General. The total number of evaluations increased again in 2007 after a slight decrease in 2006, coming back to previous levels of activity (**Chart 3**).

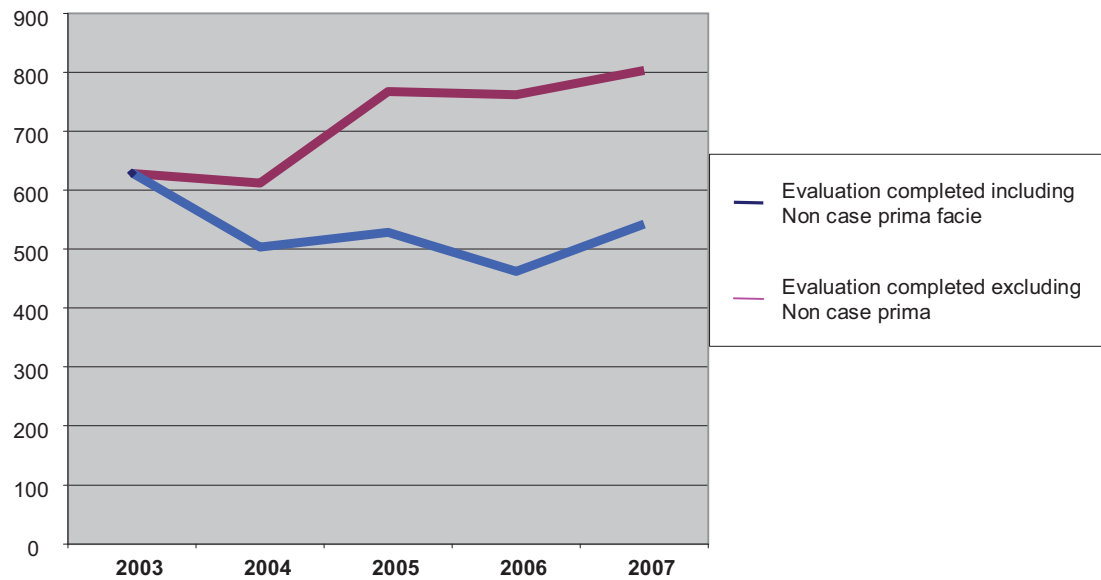
On the other hand, the steady fall in the average length of standard evaluations, from 10.6 months in 2002 to 5.2 months in 2006, was interrupted in 2007, with a rise to 6.3 months (**Chart 4**). An increase in the average duration of evaluations from 2005 onward was to be expected, as from 2004 onwards a greater proportion of information received was excluded from this calculation with the introduction of the 'non case prima facie' system. But even though OLAF continues to seek to improve this aspect of its performance, the information passed on to the Office is of an increasingly substantive and serious nature. Delays can also be often caused by translation requirements and by the need to wait for replies

<sup>10</sup> An explanation of administrative follow-up is provided in paragraph 3.4.1.

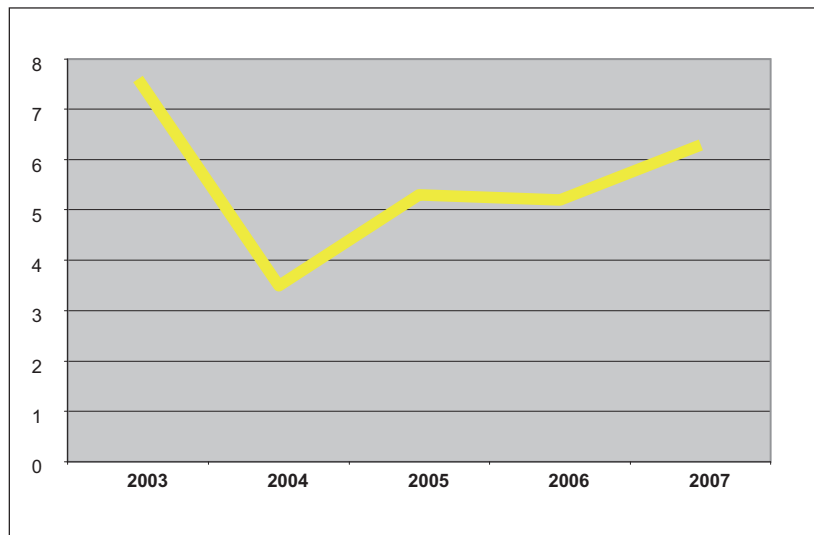
<sup>11</sup> Data for 2006 has been corrected to avoid duplication.

from external operational partners. Priority continues to be given to the assessment of information in respect of which OLAF has a clear mandate.

**Chart 3: Number of evaluations including and excluding “non case prima facie”**



**Chart 4: Average duration in months of evaluations excluding ‘non case prima Facie’ information in each calendar year**



**Chart 5** below reflects the type of decisions taken at the end of the evaluation stage. The overall spread between the different types of cases indicates that OLAF tends increasingly to concentrate on its own investigations, rather than simply providing assistance to national authorities. Opening decisions in the latter, represented by ‘*coordination*’ and ‘*criminal assistance*’ cases, are still decreasing over the five year period, accounting in 2007 for less than 23% of opened cases, as compared with 50% in both 2003 and 2004.

Similarly, the rising number of ‘*monitoring actions*’ is an indicator of closer cooperation with the relevant authorities in the Member States.



**Chart 5: Decision taken at the end of the evaluation stage in each calendar year**

Type of decisions	2003	2004	2005	2006	2007
Co-ordination case	86	81	37	26	39
Criminal assistance case	68	28	17	20	9
External investigation case	127	87	121	111	127
Internal investigation case	27	23	41	37	35
<b>Total cases opened</b>	<b>308</b>	<b>219</b>	<b>216</b>	<b>194</b>	<b>210</b>
Non case	261	256	273	209	266
Investigation created in Irene	19				
Monitoring case	39	29	40	59	67
<b>Total</b>	<b>627</b>	<b>504</b>	<b>529</b>	<b>462</b>	<b>543</b>

The investigations created in IRENE refer to cases classified in UCLAF's IRENE database.

As shown in **Chart 6**, a significant proportion of new cases opened in 2007 related to 'Direct expenditure' and 'External Aid' (75 cases out of 210, i.e. more than one third of total cases opened). This global figure seems once again to confirm that OLAF's activities are moving towards areas in which Member States do not exercise specific responsibilities. For organisational purposes, cases involving funds directly managed by the Commission (or, occasionally, other EU bodies) are divided into two categories: 'direct expenditure' within Member States and 'external aid'. Although there was again a sharp increase in the number of cases in the 'external aid' area, 'direct expenditure' cases remained at a relatively low level by contrast to previous years.

**Chart 6: Number of direct expenditure and external aid cases opened**

Area	2003	2004	2005	2006	2007
Direct expenditure	23	23	28	11	11
External aid	56	30	36	54	64

The number of cases completed, which had been declining over time, has reverted to 2005 levels, and the average 'active stage' duration increased slightly from 27 to 28 months in 2007 (**Chart 7**). OLAF will continue to take action to monitor and reduce the duration of its investigations, even though this duration is in large part due to factors which are out of the Office's control. Since the introduction of the 'simplified procedure' in 2004 along with other changes in operational policy the decision to open a case is targeted more and more on the most serious cases, which are often very complex and take a long time to finalise. OLAF remains committed to tackling the issues arising in this domain so as to bring the average duration down below 24 months.

Thanks to renewed efforts in 2007, some indicators already demonstrate positive developments expected in the coming months: e.g. the number of investigations opened for more than three years has decreased from 15% to 10% of the total of opened investigations in that year, while the number of follow-up paths opened for more than three years has decreased from 50% to 47%.

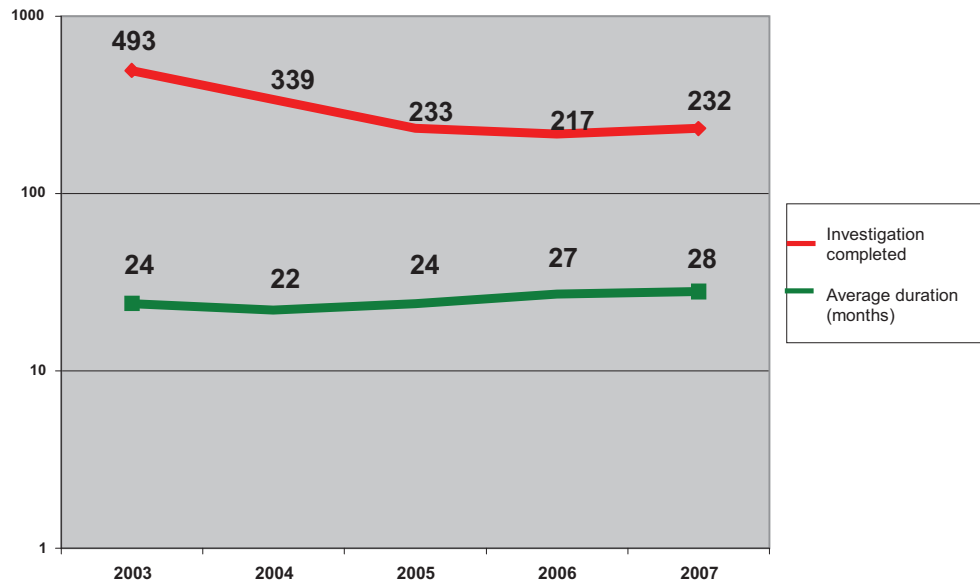
However, the achievement of this long-term target must take account of wide differences between types of investigation and areas concerned.

This record is supported by **Chart 8** and **Chart 9** which both illustrate the difficulties faced by investigators in complex cases and in cases where the assistance or the collaboration of Member States or outside authorities is required.

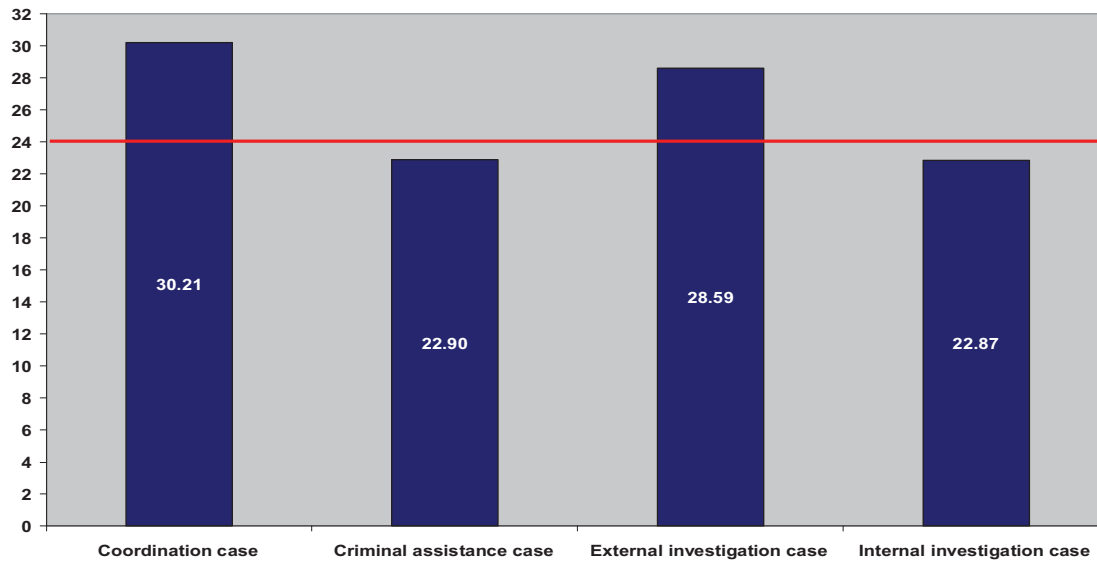
**Chart 8** shows that **internal investigations**, for which no outside coordination is necessary, and **criminal assistance cases**, for which OLAF support is limited in time and scope, do not exceed the 24-months threshold. However, **external investigations**, often the most complex cases, and **coordination cases**, where heavy coordination work is needed, significantly exceeds this limit.



**Chart 7: Cases completed and duration of active stage completed in each calendar year (NB: logarithmic scale)**

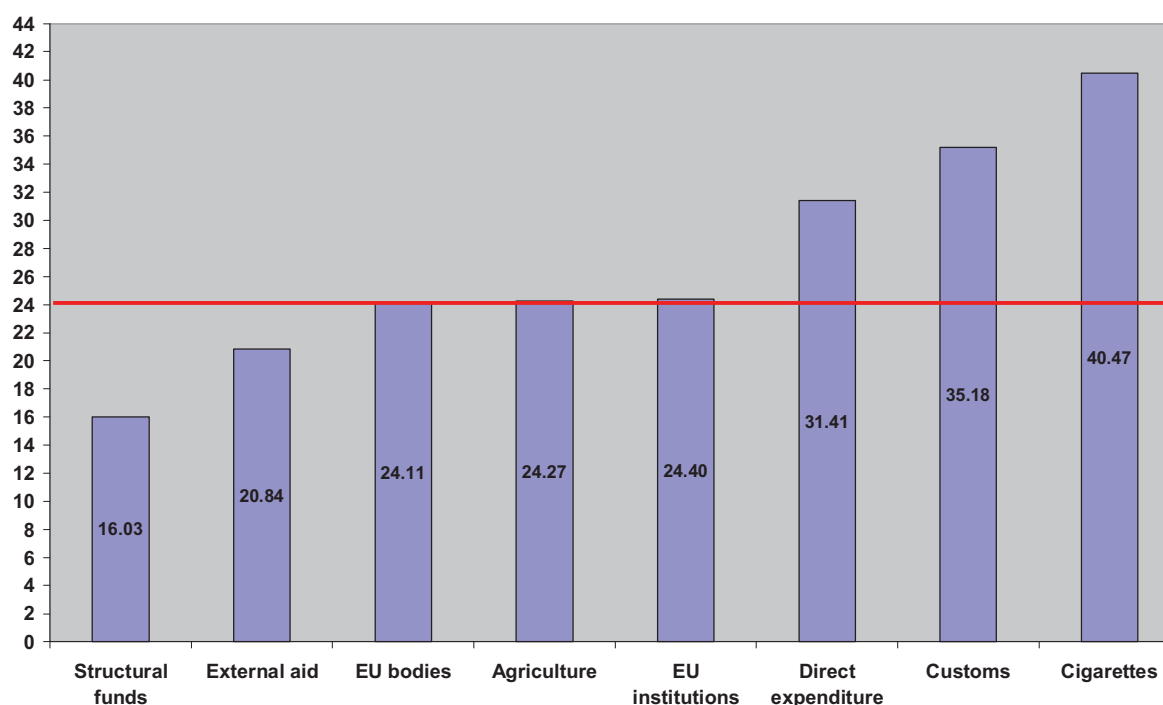


**Chart 8: Average duration of active stage completed in 2007 per type of investigation**



**Chart 9** gives more detail on these developments by illustrating the spread in investigation times between different areas of OLAF investigations, which is in large part attributable to the level of complexity of frauds and irregularities, the involvement of outside partners of OLAF and the type of expenditure — direct or shared management — in question.

**Chart 9: Average duration of active stage completed in 2007 per area concerned**



As **Chart 10** shows, the proportion of cases closed with follow-up has consistently increased since 2003. Cases closed with follow-up amounted to more than 65% of cases closed in 2007 (compared to 41% only five years earlier). This positive development demonstrates that OLAF’s operational and investigative work has been successfully translated into a proportionate increase in significant results.

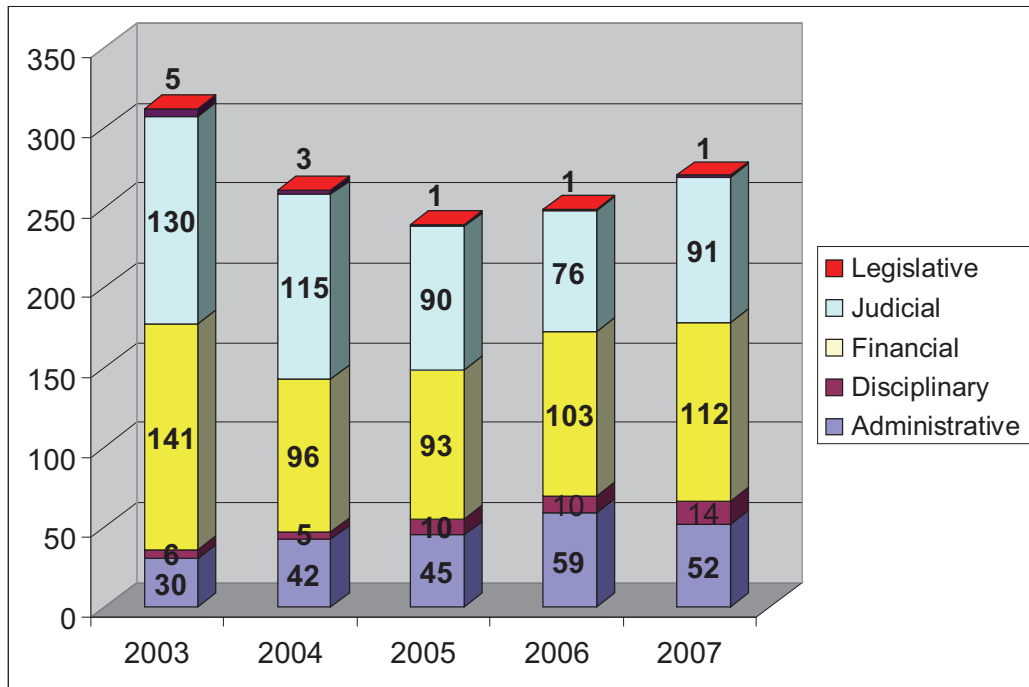
**Chart 10: Cases closed with or without follow-up in each calendar year**

Type of closure	2003	2004	2005	2006	2007
Follow-up	205	157	133	133	153
No follow-up	288	182	100	84	79
<b>Total</b>	<b>493</b>	<b>339</b>	<b>233</b>	<b>217</b>	<b>232</b>

The result of a case may lead to several types of follow-up activity: administrative, financial, legislative, judicial or disciplinary. **Chart 11** illustrates the spread of follow-up activities related to the cases closed in the last five years. For instance, the 153 cases closed with follow-up in 2007 have triggered the start of 249 follow-up proceedings. This is attributable to the fact that there can be more than one follow-up activity for each case.

**Chart 11: Cases closed with follow-up and type(s) of follow-up opened**

Type of closure	2003	2004	2005	2006	2007
Cases closed with follow-Up	205	157	133	133	153



NB: One closed case can have several types of follow-up

The bulk of the **follow-up work** concerns financial recovery and judicial activities, which represent respectively 41% and 34% of the follow-up activities undertaken. At the same time, the previous upward trend on a yearly basis in administrative follow-up cases (see paragraph 3.4.2) stopped in 2007, though this work still constitutes some 20% of OLAF’s follow-up activities.

It is also worth pointing out the increase in the number of disciplinary follow-up paths, showing OLAF’s determination to support the zero tolerance policy applied within the EU institutions and bodies when serious misconduct arises.

As for **monitoring actions**, a similar pattern of activity emerges, as indicated in **Chart 12**.

As mentioned in paragraph 1.4, monitoring actions, introduced in 2002, are those where OLAF has the legal competence to conduct an external investigation, but where a Member State or another authority is in a better position to do so. These cases are passed directly to the relevant authority for completion and no OLAF investigative resources are required. One or more OLAF follow-up units will then monitor progress made. The number of monitoring actions continued to increase in 2007 and has almost doubled since 2005. This trend is a consequence of improved cooperation with the relevant authorities in the Member States.

**Chart 12: Monitoring actions opened showing type(s) of follow-up opened**

Type of closure	2003	2004	2005	2006	2007	Total	
<b>Monitoring cases</b>	39	29	40	59	67	234	
<b>Related Follow-up Activity (several possible per case)</b>	Administrative	11	6	7	19	21	64
	Financial	21	10	21	33	35	120
	Judicial	22	21	32	46	55	176
	Legislative		1	1	1		3
<b>Total</b>	<b>54</b>	<b>38</b>	<b>61</b>	<b>99</b>	<b>111</b>	<b>363</b>	

The responsibility for follow-up in most cases falls to the relevant national authorities. **Chart 13** illustrates the number of cases and respective follow-up activities **completed**. The follow-up paths are

closed once the decision taken by the national or disciplinary authorities has become definitive. Therefore, the completion of follow-up depends to a large extent on the input of those authorities. After a one third fall in follow-up completed in 2006, due to major efforts made by OLAF to close long-standing follow-up actions, the number reverted in 2007 to the previous highest levels,

**Chart 13: Completion of follow-up showing type(s) of follow-up closed in each calendar year**

Type of closure	2003	2004	2005	2006	2007	Total	
Cases with follow-up completed	22	82	87	64	86	341	
Type of follow-up activity closed	Administrative	2	10	17	14	16	59
	Disciplinary			2	3	2	7
	Financial	18	58	65	39	73	253
	Judicial	7	31	36	30	27	131
	Legislative		2	1	1	1	5
<b>Total</b>	<b>27</b>	<b>101</b>	<b>121</b>	<b>87</b>	<b>119</b>	<b>455</b>	

**Chart 14** reflects the annual breakdown of financial recovery completed in the last five calendar years: €203 million recovered as a result of follow-up actions closed in 2007; €275.5 million were also recovered in respect of follow-up actions which are still ongoing. The large fluctuations observed from year to year are due to the fact that a few high profile cases accounted for a large share of recoveries in past years.<sup>12</sup> These sums represented only a fraction of the total amounts recovered following fraud or other irregularity, as most of the recoveries are made by Member States with no direct link to OLAF cases.<sup>13</sup>

**Chart 14: Breakdown of amounts recovered following OLAF cases in € million (data relates to amounts recovered in financial follow-up paths closed in each calendar year by OLAF, except for the last column)**

Major Area	2003	2004	2005	2006	2007	Total	Additional amounts recovered in respect of follow-up paths still open
Agriculture	0.00	0.07	14.43	1.18	0.84	16.52	144.77
Customs	0.03	1.58	63.05	0.13	3.34	68.13	102.47
Direct expenditure	0.22	1.86	0.18	0.25	0.49	2.99	0.44
EU institutions + Bodies	0.00	0.04	0.00	2.16	0.13	2.33	1.84
External aid	0.88	2.01	31.78	92.72	0.90	128.29	3.97
Structural funds	1.47	192.62	97.96	17.22	197.67	506.95	22.04
<b>Total</b>	<b>2.61</b>	<b>198.17</b>	<b>207.40</b>	<b>113.66</b>	<b>203.37</b>	<b>725.21</b>	<b>275.52</b>

<sup>12</sup> Notably, one monitoring case regarding structural funds led to the recovery of more than €115 million

<sup>13</sup> See the *Commission Report on the Protection of the Communities' financial interests — Fight against Fraud 2007* for more details.

## 3 Operational Activities in 2007

### 3.1 Incoming information

OLAF received 886 new items of information in 2007 (**Chart 2**). Evaluations were completed for 543 of these cases (**Chart 3**). The remainder were either treated under the simplified procedure as ‘*non-cases prima facie*’ (260 cases in 2007) or the information was evaluated as linked to existing cases.

*Chart 15: Distribution of initial information received by source*

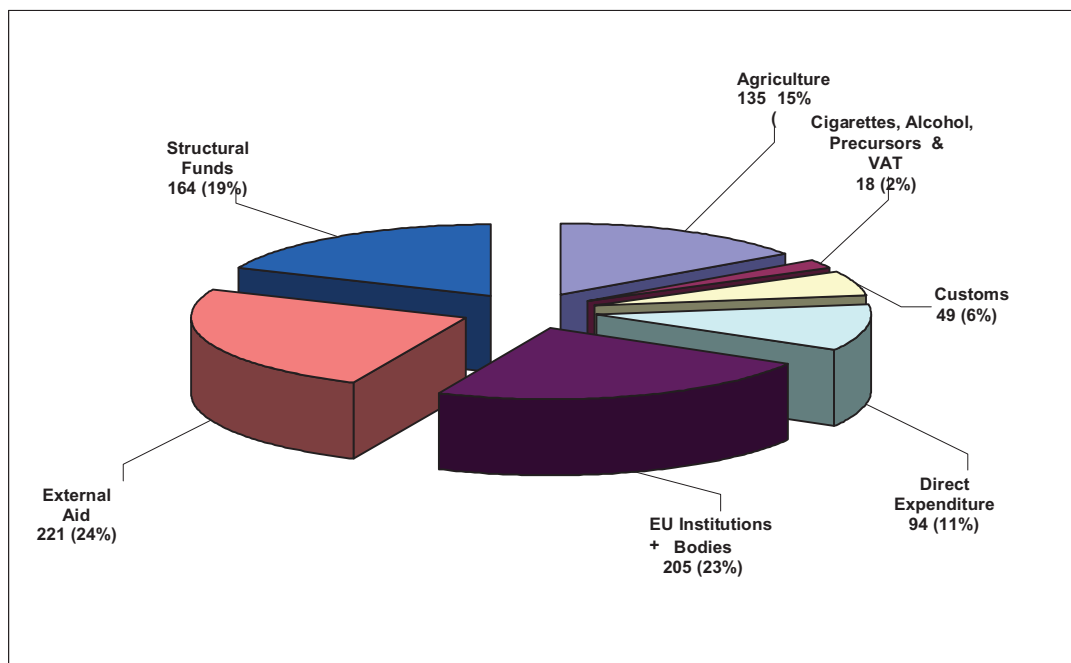
Source	New Information received (net evolution / 2006)	As percent of total
European Commission	259 (+1)	29%
Free phone	43 (+17)	5%
Informants	425 (+28)	48%
Member States	129 (+24)	15%
Other EU Institutions	17 (-2)	2%
Others	13 (-8)	1%
<b>Total</b>	<b>886</b>	<b>100%</b>

‘Informants’, representing about half (48%) of the total incoming information, the European Commission, representing about one third (30%), and Member States, representing about 14%, account collectively for more than 90% of the incoming information (**Chart 15**).

As these sources of information had already increased in 2005 and 2006, the latest figures reflect increased public awareness of the Office, confirming and reinforcing OLAF’s role as a ‘pillar of trust’ in the fight against fraud.

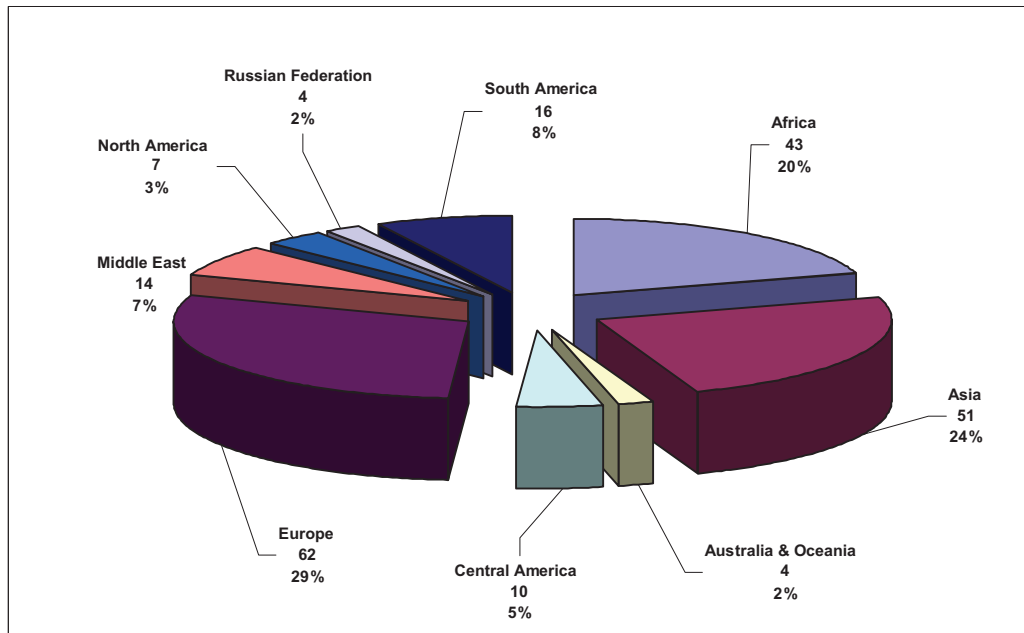
**Chart 16** below details the initial information received in 2007 by OLAF area. The proportion is roughly the same as in 2006 and 2005. A slight increase in the volume of information received is nonetheless to be noted in the ‘*External aid*’ area, at the expense of the internal investigations area (*EU institutions + bodies*).

*Chart 16: Initial information received in 2007 by area*



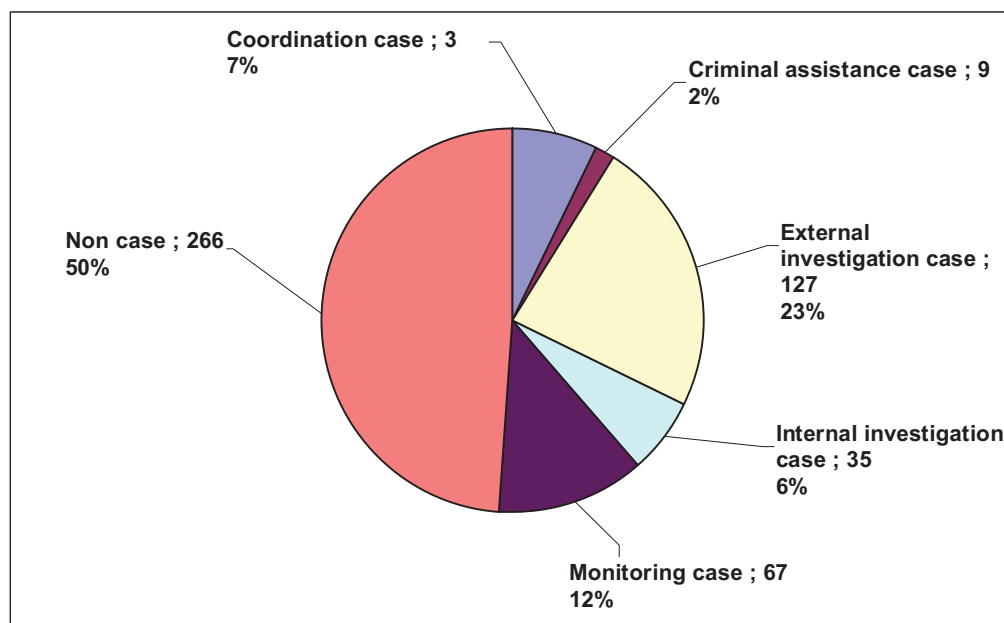
**Chart 17** below, showing the distribution of initial information in relation to activities in non-EU countries, demonstrates that the pattern is similar to that in previous years. Africa and Asia still represent about half of all the initial information received, Europe (outside the EU-27) remaining nonetheless the principal source of initial information.

*Chart 17: Distribution of initial information received concerning non-EU countries by geographical region*



As described earlier, the ‘Investigations and Operations Executive Board’ analyses the information received by OLAF, in order to make a recommendation to the Director-General on the issue of opening a case. **Chart 18** shows a breakdown of the number of decisions to open and not to open a case in 2007. The proportion is also very similar to that observed in 2006.

*Chart 18: Decisions taken during 2007*



The total number of opening decisions rose from 195 in 2006 to 210 in 2007, reverting to its 2005 level (**Chart 19**). The 2007 figures confirm the distinct trend in new OLAF casework observed last year, away from coordination and assistance work (42% of the total including monitoring cases but excluding non cases) towards OLAF's own investigations (45% for external cases and 13% for internal cases).

This trend is driven by four main factors:

- a decline of more than 50% in the number of agriculture-related cases opened (from 64 in 2004 to only 30 in 2007), particularly due to an increasing shift in agriculture-related opening decisions from coordination and external investigation towards monitoring;
- an increase in cases opened in internal investigations (from 20 in 2004 to 35 in 2007);
- a change in the types of cases opened to do with the Structural Funds (11 external investigations were opened in 2004 and 19 in 2007);
- growth in 'external aid' investigations (up 70%, from 36 in 2005 to 64 in 2007).

**Chart 19: Opening decisions taken in 2007 by area and type of decision**

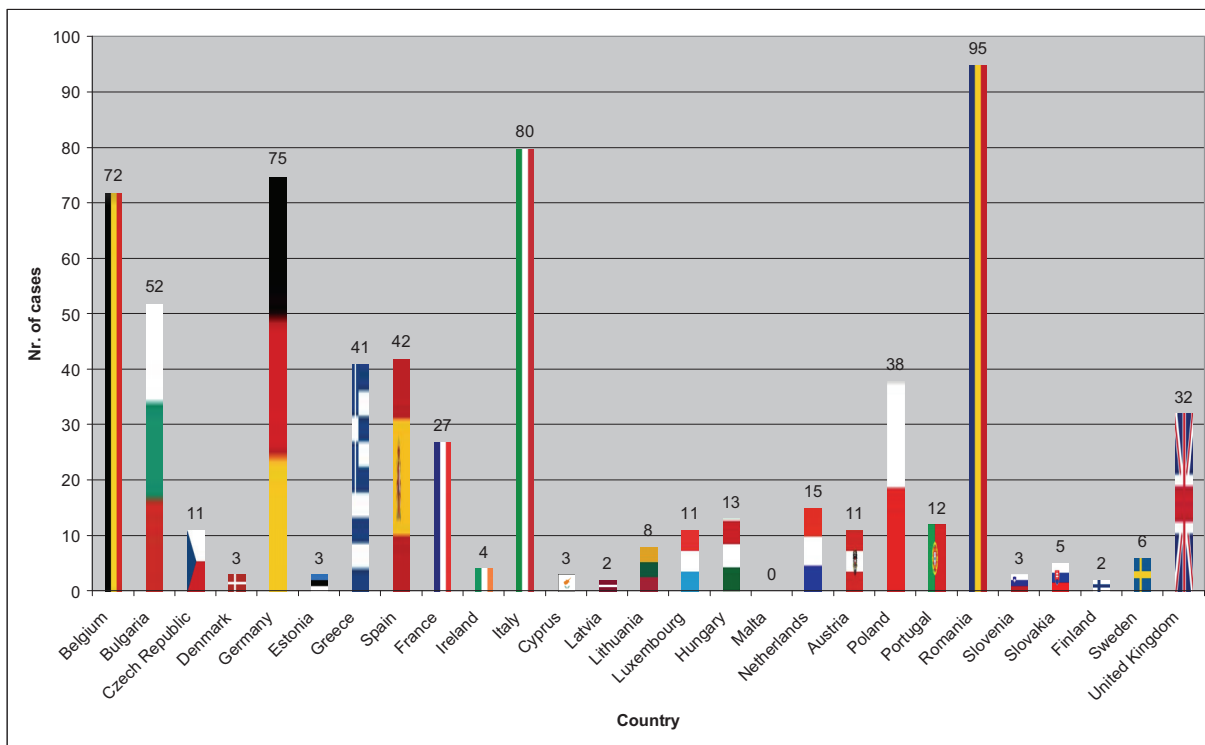
Major Area	Co-ordination Case	Criminal Assistance Case	External Investigation Case	Internal Investigation Case	Total	Monitoring Case	Non Case
Agriculture	15		15		30	15	48
EU institutions + Bodies			12	34	46		45
Cigarettes	5	3			8		2
Customs	18	4	8		30	3	21
Direct expenditure			11		11	7	21
External aid		1	62	1	64	22	62
Precursors					0		6
Structural funds	1	1	19		21	16	58
VAT					0		3
<b>Total</b>	<b>39</b>	<b>9</b>	<b>127</b>	<b>35</b>	<b>210</b>	<b>67</b>	<b>266</b>

The geographical breakdown of new case records is illustrated by **Chart 20**. One case record may relate to more than one country, as cases can have a trans-national dimension. A proportionally higher occurrence of cases is to be expected in Luxemburg and Belgium relative to their size, population and receipts from the EC budget, given that they are the seats of the largest European institutions. The vast majority of the internal investigations are therefore undertaken in these countries.

In proportion to population, and with the exception of Belgium and Luxemburg, the highest occurrence of cases was to be found in Bulgaria, followed by Romania and Greece.

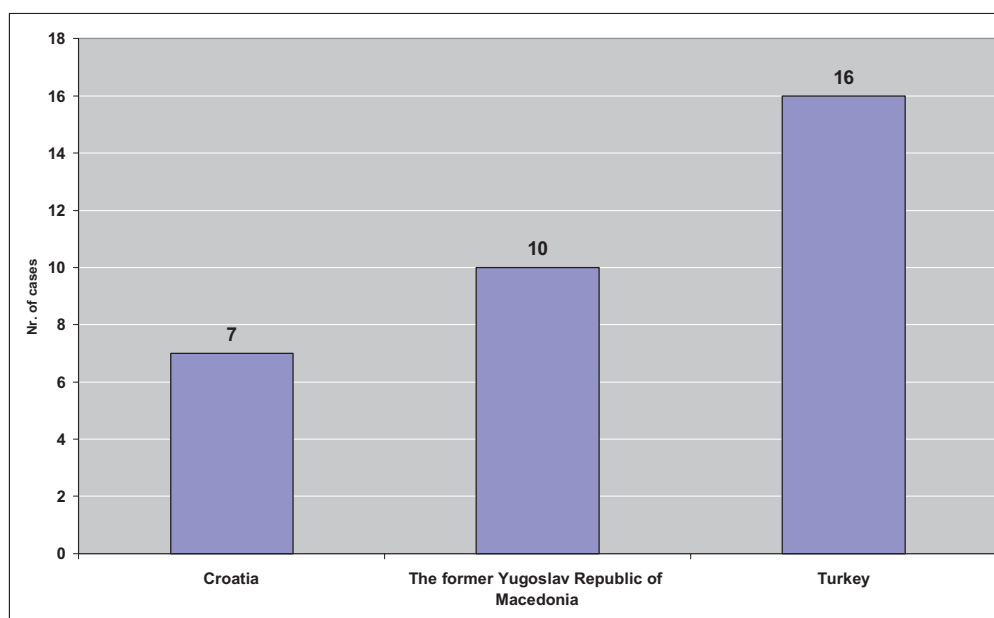
A significant share of OLAF's new case records (666 in total) relates to a small number of countries: approximately 60% of all new case records created in 2007 originated in five member states (Belgium, Bulgaria, Germany, Italy, Romania).

**Chart 20: Distribution of new case records created in 2007 by Member State**



**Chart 21** shows the corresponding information for the three candidate countries: Turkey, Croatia and the Former Yugoslav Republic of Macedonia (FYROM). The wide disparity in the number of case records between these countries and the two countries which joined the European Union in 2007 is not only due to the difference in the amounts of financial allocations granted but also to the establishment of Anti-Fraud Coordination Structures in Bulgaria and Romania (AFCOS). Similar structures are expected to be set up in the candidate countries in the coming months (see 5.3).

**Chart 21: Distribution of new case records created in 2007 by candidate country**





### 3.2 General statistics on case records and investigative activity

An overview of the active cases and cases under evaluation by area of activity at the end of 2007 is provided in **Chart 22**. It includes a breakdown of cases under standard evaluation by OLAF area.

The number of active cases decreased by some 10% since 2005, showing clear evidence of the efforts made by OLAF to keep a ‘clearance rate’<sup>14</sup> below one, and consequently reduce the backlog of old cases pending.

An increasing proportion of open cases consists of ‘*external aid*’ cases, whereas ‘*agriculture*’, ‘*VAT*’ and ‘*Customs*’ cases are declining, reflecting OLAF’s decisions on prioritisation.































*Chart 22: Active cases by type and cases under evaluation at the end of 2007*

Major area	Co-ordination Case	Criminal Assistance Case	External Investigation Case	Internal Investigation Case	Total	Evaluation
Agriculture	23		27		50	50
Cigarettes	17	6	2		25	
Customs	21	3	24		48	12
Direct expenditure		1	26		27	33
EU institutions / bodies		4	21	69	94	61
External aid		6	106	1	113	102
Precursors						5
Structural funds	2	7	39		48	96
VAT	1	2			3	
<b>Total</b>	<b>64</b>	<b>29</b>	<b>245</b>	<b>70</b>	<b>408</b>	<b>359</b>

**Chart 23** provides a **snapshot** of all active cases at the end of 2007 showing the instances where Member States and acceding or candidate countries are involved. More than one country can be registered per case record.

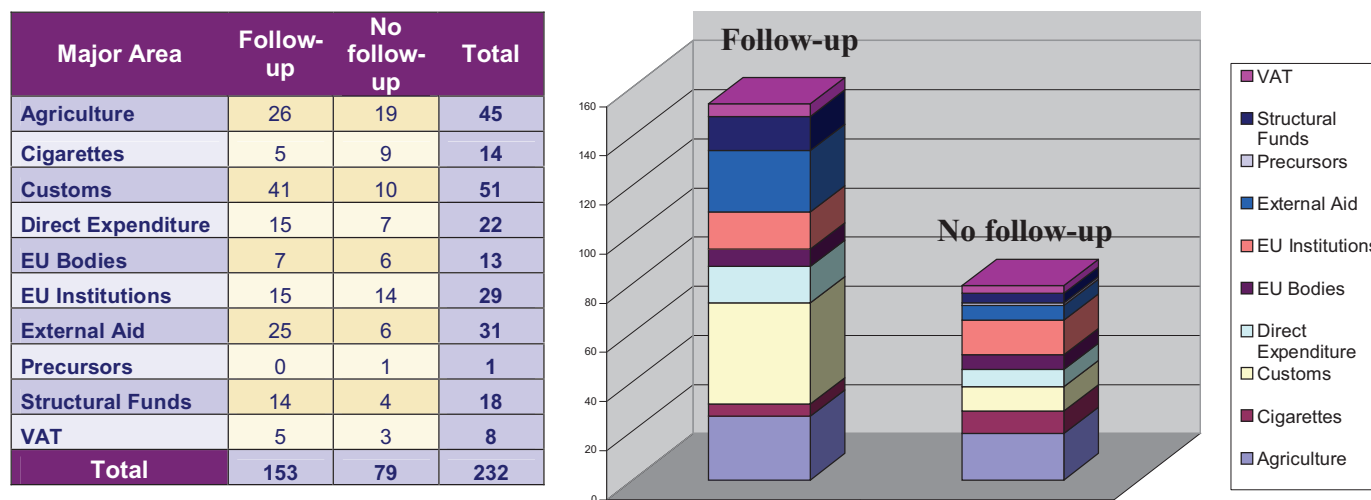
<sup>14</sup> The clearance rate is the ratio between the number of cases opened and the number of cases closed in a given year.

**Chart 23: Active cases at the end of 2007 by Member State and Candidate Country**

Status of Country	Country involved	Agriculture	Cigarettes	Customs	Direct Expenditure	External Aid	Internal Investigations	Precursors	Structural Funds	VAT	Total
Member States	BE 	1	10	1	5	2	37		2	1	59
	BG 	3	1			10	1				15
	CZ 	1		1							2
	DK 	1		1						1	3
	DE 	5	6	7	4	1	1		1	1	26
	EE 									1	1
	EL 	8	3		3			5		10	29
	ES 	3	1	2	4			1		8	20
	FR 	2	1	1	4		8	2		1	20
	IE 	3	2								5
	IT 	12	4	4	2	6		8		14	51
	CY 				1	1					7
	LV 										2
	LT 									2	3
	LU 	1					1	4			6
	HU 			1	1						2
	MT 										0
	NL 	1	2	2	1						7
	AT 	3	1	1	1						6
	PL 	1	3	1			3			2	12
	PT 	1		1	1					4	7
	RO 	5	1				14				20
	SI 		3	1			2				6
	SK 	1		1						1	3
	FI 										1
	SE 		2	1							4
UK 	4	5	3	3		3			2	21	
	<b>Subtotal</b>	<b>56</b>	<b>52</b>	<b>29</b>	<b>30</b>	<b>52</b>	<b>59</b>	<b>0</b>	<b>47</b>	<b>13</b>	<b>338</b>
Candidate Countries	HR 		1		1						3
	MK 						4				4
	TR 	3		1	1	5	1				10
		<b>Subtotal</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>TOTAL</b>	<b>59</b>	<b>53</b>	<b>30</b>	<b>31</b>	<b>58</b>	<b>64</b>	<b>0</b>	<b>47</b>	<b>13</b>	<b>355</b>

The number of **cases closed** increased slightly from 216 in 2006 to 232 in 2007, reverting to its 2005 level (**Chart 24**). As highlighted earlier, more cases were closed with follow-up recommendations than without for the third consecutive year, with a two-to-one ratio.

**Chart 24: Cases closed in 2007 by area**



**Chart 25** shows the historical estimated financial impact of OLAF cases<sup>15</sup> by area and by stage at the end of 2007. ‘Open’ denotes those 408 cases which were in their active stage. ‘Closed’ represents cases in follow-up, including monitoring actions; closed without follow-up and where follow-up has been completed. The overall estimated financial impact of cases exceeds €1 billion in the ‘Structural Funds’, ‘Agriculture’, ‘Customs’ and ‘Cigarettes’ areas.

**Chart 25: Financial impact of open and closed OLAF cases up to the end of 2007**

Area	Open	Closed	Total
	(€ million)	(€ million)	
Agriculture	108.8	1,363.4	1,472.2
Alcohol	0.0	179.8	179.8
Cigarettes	273.0	1,051.7	1,324.7
Customs	493.3	820.9	1,314.2
Direct expenditure	14.1	269.7	283.8
EU bodies	8.0	108.4	116.4
EU institutions	281.6	263.9	545.5
External aid	192.6	249.6	442.2
Structural funds	172.4	1,478.2	1,650.6
VAT	15.0	712.8	727.8
<b>Total</b>	<b>1,558.8</b>	<b>6,498.4</b>	<b>8,057.2</b>

### 3.3 Case records and investigative activity by area

#### 3.3.1 Internal investigations

As shown in **Chart 22**, the internal investigations<sup>16</sup> workload totalled 94 open cases and 61 items of information under evaluation at the end of 2007. The number of open cases remained stable.

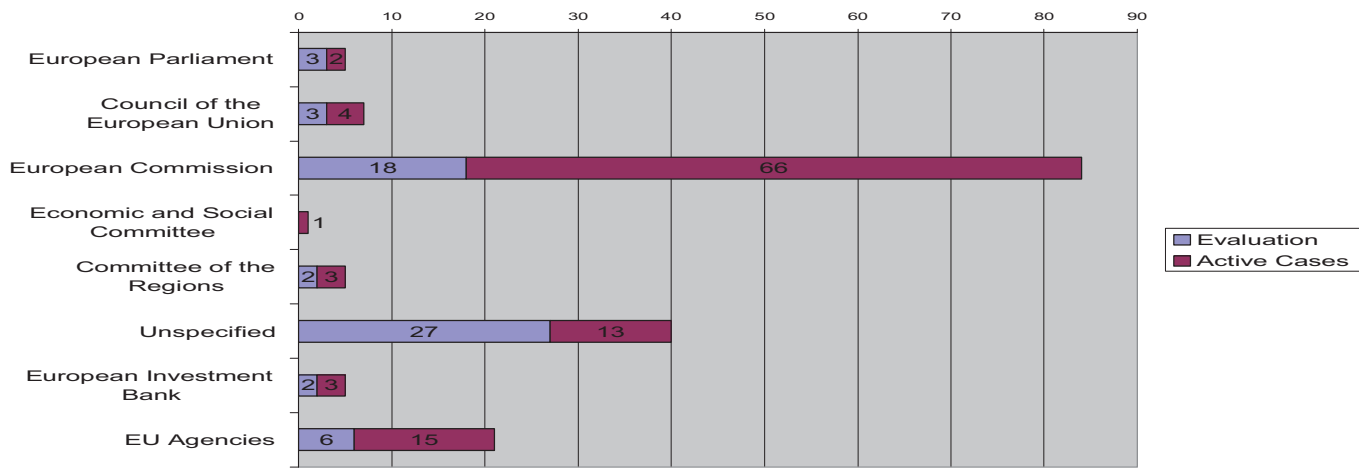
**Chart 26** indicates which EU institutions or bodies have been involved in internal investigation cases. As the European Commission manages a far greater part of the budget than the other institutions and accounts for most EU officials and other staff, it is more frequently the subject of investigations. As an internal investigation may involve more than one institution, the total number of cases classified by institution (107) is higher than the number of internal active cases (94).

<sup>15</sup> Data referring to all cases treated by OLAF, including monitoring cases.

<sup>16</sup> ‘EU bodies’ + ‘EU institutions’

The quality of initial information and the degree of detail of supporting documents have improved over time. Information is received and exchanged faster and more efficiently. Cooperation with the institutions has improved significantly.

**Chart 26: Internal investigations under evaluation and active stage at the end of 2007**



**Case Study: Embezzlement by an agent in an EC Delegation**

OLAF was informed by a Director-General of the Commission that irregularities had apparently been committed by an agent employed in a Delegation. As a result of its findings, the concerned DG suspended and subsequently dismissed the agent.

After evaluating the matter and opening an investigation, OLAF investigators clarified the allegations. The involvement of a second local agent was suspected.

OLAF investigators carried out a mission to the Delegation and interviewed several witnesses and two secondary 'interested parties'. The main suspect was subsequently interviewed.

The OLAF investigation was able to confirm a number of apparently illegal acts committed by the former agent. These included theft of money, false accounting and attempted corruption of a third local agent. The losses arising from the agent's misconduct were found to total several tens of thousands of euros, of which half represented losses to the EU budget.

The OLAF investigation established that the second local agent had conspired with the first in the commission of some of the irregularities. Their line manager, on the other hand, had not been aware of the conspiracy, but had been negligent in failing properly to supervise the administration and procurement functions of the Delegation.

OLAF therefore recommended that the file be transmitted to the judicial authorities of the EU Member State. OLAF also recommended that the line manager should not be reappointed to another post with similar responsibilities.

**Case Study: Favouritism committed during a tender procedure at a European agency**

The Director of an EU agency informed OLAF of allegations of favouritism allegedly committed by two staff members in the course of tender procedures. Given the seriousness of the allegations, OLAF opened an internal investigation and conducted the following operations:

- mission on-the-spot to seize IT material used by the concerned parties
- analysis of the content of hard disks
- interviews with witnesses and interested parties in different places in Europe.

The investigation revealed that the main allegation (favouritism) had not occurred and the contracts had actually been awarded to the best offer. However, OLAF discovered that one of the parties had breached the duty of loyalty in the Staff Regulation in relation to one of the contracts. The official had obtained a favour from one bidder shortly before the evaluation had taken place.

On this basis, OLAF recommended disciplinary proceedings against the staff member and did not rule out the possibility that the facts would have an impact on the continuation of the contractual relationship. The latter decision was left to the Director of the Agency.

### **Case Study: Alleged fraudulent pension claim by a retired official**

The European Paymaster Office (PMO) referred to OLAF the file of a retired official whom the PMO suspected of making unjustified pension claims. On the basis of annual declarations to the Commission that his main residence was in country A, the retired official, who did not possess country A's nationality, received a weighted increase to his pension to reflect the cost of living in country. This amounted to an increase of nearly 40% of the basic amount of the pension.<sup>17</sup>

OLAF informed the retired official of the opening of its investigation, and invited him to provide proof of his residence in country A. The documents provided were insufficient to demonstrate his place of actual residence.

OLAF interviewed witnesses and gathered information from the national administration. The OLAF investigator in charge visited the address in country A given by the official to the Commission as his main residence. He learned that it belonged to a local man who lived in a third European country, while the retired official had never lived there. The investigator flew to the third European country, where the official was actually found to be living. The owner of the house in country A was interviewed as a witness by OLAF, and stated that he had agreed to sign a rental agreement for his house in country A with the official in order to establish a place of residence.

The case was referred to judicial authorities, and OLAF also recommended disciplinary, financial and administrative follow-up.

### **3.3.2 Direct expenditure (excluding external aid)**

Direct expenditure (excluding external aid) includes all the programmes and actions which are managed by the Commission under the so-called 'centralised management' system pursuant to Article 53 (1) a) of the Financial Regulation. In this area, 11 cases have been opened in 2007 (**Chart 6**), while 27 cases were active and 33 cases were in evaluation at the end of the year (**Chart 22**).

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

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

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

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

The results of the investigation were transmitted to the judicial national authorities for the criminal investigation, and to the services of the EU Commission concerned, to recover up to one million euros in unduly paid subsidies.

### **3.3.3 Pre-accession funds**

**Chart 27** shows the number of cases opened in the new Member States and the candidate countries. 'Agriculture' (with SAPARD) and 'External Aid' (PHARE and ISPA) relate to pre-accession financial assistance. For the 12 'new Member States', all the cases refer to commitments made before their accession to the European Union on 1 May 2004 or 1 January 2007.

The 10 new Member States that joined the EU in 2004 were granted a Transition Facility for 2004-2006. Contracting is envisaged to continue until 2008 and payment of funds until 2009. Bulgaria and Romania were

<sup>17</sup> Note: Pension rights acquired before the entry into force of the Staff Reform are adjusted according to the weighting for each Member State. The weighting reflects the higher or lower cost of living in other European countries compared with Brussels.

granted a Transition Facility in 2007; implementation is expected to continue until 2010. These Transition Facilities provide continued financial assistance in a number of core areas requiring further reinforcement, as identified in the last Comprehensive Monitoring Reports before accession. Assistance is implemented under the Extended Decentralised Implementation System (EDIS).

It is to be noted again that most cases concern Romania and Bulgaria (10). This is mainly because the majority of pre-accession assistance was granted to Romania and Bulgaria (some 61% of the total in 2006 (€2.9 billion)); and also because of Romania's good cooperation in providing information on the suspected cases of fraud.

*Chart 27: Cases opened in 2007 concerning new Member States (since 2004) and candidate countries (one case can relate to more than one country)*

Country	Agriculture	Anti-corruption	Cigarettes	Customs	Direct expenditure	External aid	Structural funds	EU institutions & bodies	Total
Bulgaria	2					8			10
Czech Rep.	1			1					2
Cyprus			2		1				3
Estonia									0
FYROM		1						3	4
Croatia					1				1
Latvia									0
Lithuania							2		2
Hungary				1					1
Malta									0
Poland	1		1	1		2	2		7
Romania	3					7			10
Slovenia									0
Slovakia	1			1			1		3
Turkey						4			4
<b>Total</b>	<b>8</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>21</b>	<b>5</b>	<b>3</b>	<b>47</b>

**Case Study: Fraud and irregularities concerning projects funded by pre-accession funds**

An individual reported possible irregularities in several projects aimed at improving the quality of life of local communities. The allegations sent to OLAF concerned infrastructure (a bridge and a dispensary) subsidised by a pre-accession fund.

OLAF opened an external investigation and involved the national Department responsible for the fight against fraud in the investigation. The joint team investigated the allegations concerning the tender procedures and the execution of the projects.

On examining the files relating to the tender procedures, the investigators found that in some projects, beneficiaries and suppliers did not in fact fulfil the eligibility criteria and should have been excluded from the tenders.

In addition, OLAF and its national partners investigated the implementation of the contracts, with the help of specialists. They concluded that:

- The beneficiary, constructor and designer had conspired to use inferior materials in the construction work, in breach of the terms of the contract implementing the project. As a result, the bridge was sub-standard and already showed signs of damage.
- The construction company had contravened a large number of national law provisions aimed at ensuring the quality and safety of the infrastructure, which was therefore unsafe.

As result of this OLAF investigation, the European Commission started a financial recovery procedure and OLAF informed the local judicial authorities. The financial impact to the EU budget was estimated at more than €300 000.

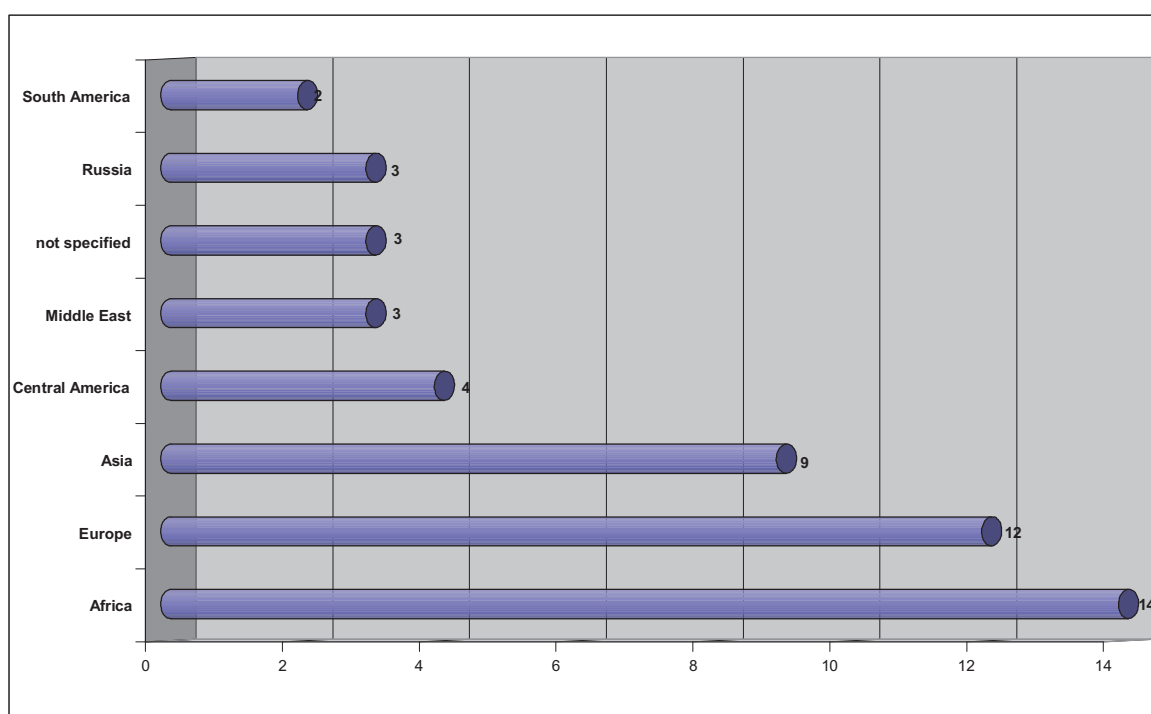
### 3.3.4 External aid

The European Union is the largest provider of development and humanitarian aid in the world. The combined development aid of the European Community and of its 27 Member-States amounted to €46.1 billion, representing about 70% of all development aid in the world. EC external aid totalled alone €10 billion, or 8% of the Community's budget.<sup>18</sup>

External aid is one of the traditional areas of OLAF's so-called 'own' investigations. OLAF plays a crucial role in preventing and detecting fraud in this field by working in partnership with other Commission departments — notably the Europe Aid Cooperation Office (AIDCO) and the European Community Humanitarian Aid Office (ECHO) — and also with international partners.

**Chart 28** shows OLAF cases opened in cooperation with other Commission departments in 2007 by geographical region. Africa remains the most significant region of interest for OLAF casework, accounting for more than 25% of all cases opened, while DG AIDCO is OLAF's partner in 50% of cases.

**Chart 28: New external aid cases opened in 2007 by geographical region (Europe outside EU-27)**



In the external aid area, OLAF investigators often encounter modus operandi typical of organised fraud. The risks that make such fraud possible include shortcomings in coordination between the different global and international donor organisations. These shortcomings affect the allocation of grant aid, auditing, monitoring, evaluation and the operation of warning systems. The abundance of different projects, programmes, NGOs, organisations and foundations, combined with the fact that many of these operate in different legal environments and financial systems, makes coordinating and supervising the aid a challenging task. Moreover, many organisations look for multiple sources of financing in order to implement their projects. Unfortunately, there is no general information or verification infrastructure which could prevent different cases of double financing of projects.

OLAF investigators encounter various challenges in their daily investigative work in the aid area. These mainly concern obtaining evidence, and exchanging information and cooperation. These challenges have not only caused technical and organisational problems but have adversely influenced the duration and efficiency of operational work. OLAF's cooperation with a number of bodies, particularly national authorities, Commission departments and the departments of the international donor organisations responsible for spending money on aid projects will benefit from further development.

<sup>18</sup> Including humanitarian aid and the European Development Fund



The Conference of International Investigators is the forum in which the problem of better cooperation with international organisations is discussed. All the main donor organisations — the World Bank, IMF, UN and others, as well as the Commission — are represented (OLAF representing the Commission). This forum has developed and endorsed international standards for investigations which have become the basis of investigative procedures for most of the international organisations. This standardisation is a crucial step towards increasing the exchange of information.

### **Case Study: Overestimation of costs and false accountancy by an NGO in receipt of EC co-financing subsidies**

OLAF opened an external investigation in relation to alleged irregularities in the implementation of a project in Latin America whose objective was to help young people. The beneficiary of the grant was an NGO and the local partner was a national NGO. This project was co-financed by the EC (50%) at a total cost of less than €2 million.

- OLAF investigators found evidence that the real cost of the project was certainly much less than the financial contribution allocated to it. Evidence of irregularities and fraud against the Community budget and various infringements which might be subject to criminal prosecution was found.
- There were indications of false accountancy and of the submission of fictitious bank statements to the European Commission.
- The NGO did not transfer the Community funds entirely to the project and it did not make the required financial contribution from its own resources.
- According to the genuine financial records many expenses were unrelated to the project or were not in fact incurred. The Community funds were used to finance the general structure of the local NGO in projects not related to the grant, expenses which predated the project or ineligible expenses.
- The Community project funds were initially used to reimburse earlier loans at high interest rates. This was an obstacle to the proper implementation of the project for the intended purposes.
- The properties contributed by the NGO were overvalued.

The new accounts showed that in fact the project did not need the monetary contribution of 50% that the NGO had declared to the European Commission. The irregularities amounted to more than €500 000.

### **3.3.5 Structural actions**

Nearly €45.5 billion was available in 2007 to foster prosperity across Europe's regions and boost innovation and competitiveness. Of this total, €35.3 billion financed through the European Regional Development Fund and partly from the Cohesion Fund was allocated under the convergence objective to the least developed regions in the EU-27. Structural policy accounted for more than 35% of the European budget in 2007. It is therefore a crucial area in the protection of EU financial interests. The management of Structural Funds is undertaken under the so-called shared management system under Article 53(1) of the Financial Regulation. This means that the responsibility for management lies in the first instance with the Member State.

The control systems in place for Structural Funds are based on the principle that the Member State is generally responsible for controlling and correcting irregularities. When allegations of serious irregularities or fraud are submitted to OLAF, the Office, upon evaluation, may decide to intervene. In this case, the Member State authorities will be contacted to confirm whether EU funds are at stake.

OLAF's operational activities in the Structural Funds area are conducted under Regulation No 2185/1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities. Close cooperation with Member State authorities is crucial.

In 2007, OLAF received 164 allegations of fraud regarding Structural Funds (**Chart 16**). In the same year, 21 new cases were opened in this area (**Chart 19**), and 14 of the 18 cases closed were closed with follow-up (**Chart 24**). At the end of the reporting period, 48 cases were active in this area (**Chart 22**).



**Chart 29** illustrates the breakdown of cases closed in 2007 by Member State. Understandably, most of the cases relate to the countries receiving the largest assistance through Structural Funds. The estimated financial impact of the cases closed in 2007 related to Structural actions totalled €22 million, resulting from 26 on-the-spot controls carried out under Regulation 2185/96.

*Chart 29: Structural actions cases closed in 2007 by fund and country involved (a case record can contain more than one country)*

Country involved	Cohesion fund	ERDF	EAGF	ESF	FIFG	Other structural action	Total
Belgium				1			1
Bulgaria							0
Czech Republic	1						1
Denmark							0
Germany							0
Estonia							0
Greece							0
Spain		3		1			4
France		4		1			5
Ireland							0
Italy		1		5			6
Cyprus							0
Latvia							0
Lithuania							0
Luxembourg							0
Hungary							0
Malta							0
Netherlands							0
Austria							0
Poland							0
Portugal							0
Romania							0
Slovenia		1					1
Slovakia							0
Finland				1			1
Sweden							0
United Kingdom				1			1
<b>Total</b>	<b>1</b>	<b>9</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>20</b>

### **Case Study: Double funding claims from several Community sources**

In 2006, on the basis of information received about a scientific research facility, OLAF opened an investigation into the alleged double financing of project costs claimed for Community financing for biomedical research.

The specific allegation was that the same items were being submitted as costs under a structural funds measure and also being claimed under the direct Community funding available for certain research and development projects. OLAF's investigation, which was conducted in partnership with the relevant regional government service, on the spot in the EU country concerned, confirmed that the allegations were well founded. The investigation showed that the same staff costs for the project had been presented for funding from different EC budget sources.

In the light of the serious irregularities detected, it was decided to recover the full amount of Community funding already paid out to the beneficiary totalling more than €500 000. The case was also transferred to the relevant police and judicial authorities for appropriate follow-up for alleged breaches of the national penal code.

### 3.3.6 Agriculture and trade

Agriculture accounted for €46.9 billion in expenditure in the EC budget in 2007: most of the allocations are direct aid and market measures. While the Common Agricultural Policy (CAP) is the most important in expenditure terms, this area is less significant from the revenue point of view as regards ‘own resources’. Only around 2% of EU own resources in 2007 came from agricultural duties. Agriculture also accounts for a significant share of EU trade with non-EU countries, both imports and exports.

The EU grants preferential access to its markets to some countries or geographical regions in the world (e.g. to the ACP countries and under the EBA— ‘Everything But Arms’ — initiative. As a result origin fraud is a significant phenomenon in agricultural trade, in relation not only to preferential tariff measures but also to GATT tariff quotas. The case study below on fruit and vegetable imports is an example of this type of scheme.

During 2007, OLAF received 135 allegations concerning agriculture and trade (**Chart 16**) and 30 new cases were opened in these areas (**Chart 19**). In more than half the cases closed (45) follow-up was recommended (26) (**Chart 24**). At the end of the reporting period, 50 agriculture and trade cases were still open (a reduction of 25% compared to 2006) (**Chart 22**).

**Chart 30** shows the breakdown of active cases by area/market. Direct payments, SAPARD, fruit and vegetables and garlic account for 75% of the current active cases in these areas: for example large quantities of garlic of Chinese origin are declared as originating somewhere else to benefit from preferential tariff measures. SAPARD payments are subject to continuous scrutiny, especially in Bulgaria and Romania.

**Chart 30: Breakdown of agricultural cases under evaluation and at an active stage at the end of 2007**

Product	Evaluation	Active cases	Total
Alcohol	0	1	1
Cereal products	1	1	2
Direct payments	20	2	22
Fruit & vegetables	3	11	14
Garlic	2	14	16
Live animals	1	1	2
Meat products	1	5	6
Medicines	1	0	1
Milk products	1	1	2
Olive oil	1	3	4
Rice	0	3	3
Rural development	1	0	1
SAPARD <sup>19</sup>	16	6	22
Sugar	2	1	3
Tobacco	0	1	1
<b>Total</b>	<b>50</b>	<b>50</b>	<b>100</b>

The estimated financial impact of agriculture cases closed in 2007 (**Chart 31**) exceeds €100 million. The financial impact of cases in this area increased (€58 million compared to €53 million in 2006) and exceeded the financial impact of cases closed in the Structural Funds and Cohesion Fund area (€22 million, well down on the 2006 figure because of the contribution to the 2006 statistics of a small number of very large cases.

**Chart 31: Financial impact of agriculture cases closed in 2007**

	Cases closed	Financial impact
EAGF and EARDF with follow-up recommendation	26	58,056,041.00

<sup>19</sup> Technically a pre-accession fund, SAPARD is covered by the OLAF ‘Agriculture’ Unit, and has been included in **Chart 30** for that reason.

### **Case Study: Banana production aid**

The Common Agricultural Policy (CAP) provides for certain aid payments in order to guarantee a reasonable income for banana producers within the Community and to ensure satisfactory marketing of the bananas produced which compete with other bananas imported into the Community.

OLAF opened an investigation into banana production aid after receiving allegations of serious irregularities. On-the-spot controls revealed that there were indeed various instances of irregular practices relating to the reception, registration, accounting and payments for bananas delivered to and handled by a certain producer organisation. It was established that banana quantities were being overstated and that false producer names had been used. Moreover, these irregular practices had been conducted in an organised and systematic way over a long period of time. The local judicial authorities are now dealing with the matter.

From OLAF's perspective it was not the financial impact of the case (amounting to less than €200 000) which was of primary importance, but the fact that such a producer group could be infiltrated and abused in such a systematic way. Moreover, OLAF has found that this pattern of abuse by some producer organisations was a problem throughout the Community, particularly in the fruit and vegetable and tobacco sectors, and Member States should be more vigilant in their controls to prevent and detect such irregularities and fraud.

### **Case Study: Import of fruit and vegetables into the EU**

In accordance with Community legislation, the importation of particular fruit and vegetables originating in certain Mediterranean countries is subject to additional specific duties that depend on to the declared entry price. An association of exporters in country A complained to OLAF that certain importers in country B were not correctly applying EC legislation determining the customs value of the goods (mainly tomatoes). The *modus operandi* allegedly employed by the importers involved the companies concerned agreeing to state a false (higher) import price. The products were allegedly sold to various companies, thereby allowing the importer to reduce the amount of customs duties to be paid.

OLAF opened a case in 2004. Having informed the customs authorities in country B, where the goods were presented for customs clearance, OLAF carried out a mission to the Mediterranean country of production. The relevant information concerning the exports was gathered and shared with the customs authorities in country B. In addition, the relevant Commission department was asked for technical advice. In parallel, in-depth controls at the importers' premises revealed that the importers had 'speculated' on the customs value of the goods by using the so-called 'deductive method' to avoid the payment of higher complementary customs duties on import.

However, the importers contested this result. This rejection was accepted by an administrative court in country B in June 2007. Subsequently, the matter was brought before the competent Committee at European Commission level by the customs authorities of country B and this Committee agreed, in October 2007, that in this particular case a deductive method had been used to avoid paying specific duties. The evaded duties, for which recovery demands will be issued by country B, amount to several million euros.

### **3.3.7 Customs, cigarettes, precursors and VAT**

Customs duties account for some 13% of EU resources. In addition, VAT resources represent around 15% of EU revenues. During 2007, OLAF received 49 allegations in connexion with customs and 18 in the other areas covered by this chapter (cigarettes, precursors and VAT) (**Chart 16**). Thirty opening decisions were made in connection with customs and eight in connection with cigarettes (**Chart 19**). Most of the cases were closed with follow-up in 2007; in particular 80% of customs cases (**Chart 24**) — the highest proportion of all areas considered. At the end of the reporting period, 48 customs cases were active (a reduction of one third over the previous year), along with 3 VAT cases, and 25 cigarettes-related cases (**Chart 22**).

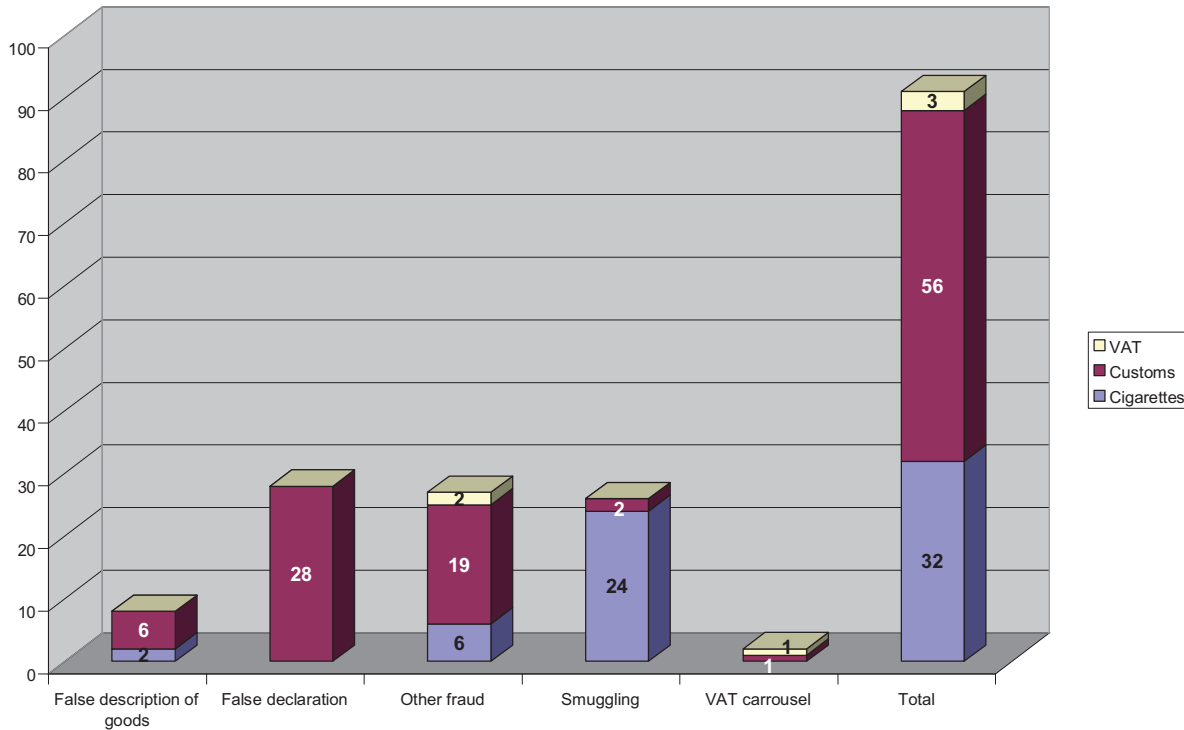
**Chart 32** shows the breakdown of the 38 cases opened in 2007. The large number of coordination and criminal assistance cases — up to 80% of cases — highlights the crucial role played by Member States in this kind of work.

**Chart 32: Cases opened in customs, cigarettes, precursors and VAT area in 2007**

Major Area	External Investigation Case	Co-ordination Case	Criminal Assistance Case	Total
Cigarettes		5	3	8
Customs	8	18	4	30
VAT				0
<b>Total</b>	<b>8</b>	<b>23</b>	<b>7</b>	<b>38</b>

**Chart 33** shows a breakdown of the type of possible fraud involved in each of the cases open in 2007 (the data relate to 76 cases). False origin declaration is not surprisingly the most frequent method encountered. Smuggling is the other major method of fraud in this group. As each case may involve multiple types of irregularity, the total exceeds the number of actual cases.

*Chart 33: Breakdown of types of possible fraud involved in the customs cases open at the end of 2007*



In 2007, OLAF provided assistance with five joint customs operations (JCO), during which the customs authorities of the participating Member States brought to light a large number of serious offences which designed to deprive the European budget of revenue. Joint customs operations can significantly improve the effectiveness of the national authorities by targeting checks at European level. The five OLAF-supported JCOs were: DIABOLO, BRIGANTINE, WASABI, PRIMA2, and PRIMA3. A high standard of logistical information support and analyses was provided for each JCO. User satisfaction surveys carried out after each operation demonstrated positive feedback.

These operations, thanks to the permanent technical infrastructure set up in OLAF, demonstrated once again the extra advantages it can offer compared with operations carried out in the Member States, with reductions in costs (three or four times lower) and less time required to mount the operation (three months instead of 18), making it possible to respond to emergency or crisis situations.

Operation ‘Diabolo’<sup>20</sup> for example, a joint World Customs Organisation (WCO) and ASEM<sup>21</sup> customs operation which was conducted from OLAF’s headquarters in Brussels and involved the customs authorities of the 27 Member States, resulted in the seizure of approximately 135 million counterfeit cigarettes. The operation ensured that the budgets of the Union and the Member States did not incur significant losses in terms of customs duties and tax revenue (estimated to be in excess of €22 million).

<sup>20</sup> [http://ec.europa.eu/anti\\_fraud/diabolo/i\\_en.html](http://ec.europa.eu/anti_fraud/diabolo/i_en.html)

<sup>21</sup> Asia-Europe Meeting: an informal dialogue process initiated in 1996. Now, the 27 EU Member States, the European Commission and 13 Asian countries participate in the process.

### **Case Study: Misdescription of preferential origin of textile products from Asia**

OLAF was advised by two Member States of serious doubts about the origin of textile products imported into the European Community, which were claimed to have been produced in Asian country A. By that time significant amounts of customs duties were found to have been evaded in both Member States. It was suspected that other Member States were affected by this type of fraud as well. An OLAF investigation was opened.

Textile products originating in country A may be imported into the Community duty free under the Community's Generalised System of Preferences (GSP) scheme. By claiming false origin, the economic operators involved could fraudulently enjoy a 0% preferential rate of duty instead of 12% and evade any possible quotas for Chinese textiles. False declaration of origin on import into the Community of the products in question incurs a customs debt in the Member States concerned, which is recoverable under the customs debt provisions of the Community Customs Code.

The suspected modus operandi was that textiles of Chinese origin were imported into the Community under cover of GSP Forms for country A. In most cases, it was suspected that the goods were shipped directly to the Community and accompanied by false or incorrect GSP 'A' Forms. It was also suspected that in some cases, based on the false information provided by the exporter in country A, genuine GSP Forms were issued in good faith by the authorities in country A for goods not qualifying for the GSP. It was suspected that this fraud had gone on for several years.

An OLAF-led Community administrative cooperation mission to country A took place in March 2007 with the participation of both Member States. With the support and cooperation of the local authorities, the mission identified around 1400 forged or invalid GSP 'A' Forms. The estimated amount of Community own resources (customs duties) evaded on these consignments was in the region of €5 million. The evasion of customs duties is punishable under the criminal laws of the Member States concerned. Importers found to be involved in this fraud would therefore be liable for criminal prosecution in those Member States. During the course of the investigation coordinated by OLAF, several other Member States identified thousands of doubtful 'A' Forms, which are under investigation. It was likely that this exercise would establish a significant number of further forged GSP 'A' Forms in the EU-25 and would result in additional recoveries of several million euros.

### **Case Study: Major smuggling ring disbanded**

OLAF received intelligence from the customs authorities in a Member State about suspected smuggling of cigarettes into the EU on board ships of country A and the imminent arrival of a suspect vessel in an EU port. This information was immediately passed to national Customs who, on searching the vessel, discovered more than one and a half million cigarettes hidden in its forepeak.

Under OLAF coordination, investigations were launched in several EU States as well as in non-EU countries. Assistance was provided by Philip Morris International (PMI) under the terms of the Anti-Contraband and Anti-Counterfeit Agreement between PMI and the European Commission and 26 Member States. It was established that a major criminal organisation was smuggling large quantities of cigarettes into the EU on board vessels docking in several ports, in at least three Member States. The cigarettes were then sold on the black market and the proceeds were transferred back to a non-EU country.

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

## **3.4 Follow-up**

Follow-up<sup>22</sup> is a monitoring phase which might include various activities undertaken by OLAF and designed to ensure that the competent Community and national authorities have carried out the legislative, administrative, financial or judicial measures recommended by OLAF, usually when a case is closed. The cases then move from the investigation to the follow-up stage. Follow-up may, however, also begin while the case is still open, if this is required for operational support purposes or to secure successful results in due course.

New information may be received or identified during the follow-up stage, giving rise to follow-up actions other than or in addition to those recommended in the final case report or follow-up recommendations report. The

<sup>22</sup> Administrative follow-up consists of all measures taken by national administrative authorities or by the Community institutions and bodies in relation to the implementation of Community policies and law

duration of the follow-up phase includes standby periods in which OLAF must wait for the results of action taken by other parties and varies according to the circumstances and complexity of the case. If court procedures are involved, the follow-up phase can often be very protracted.

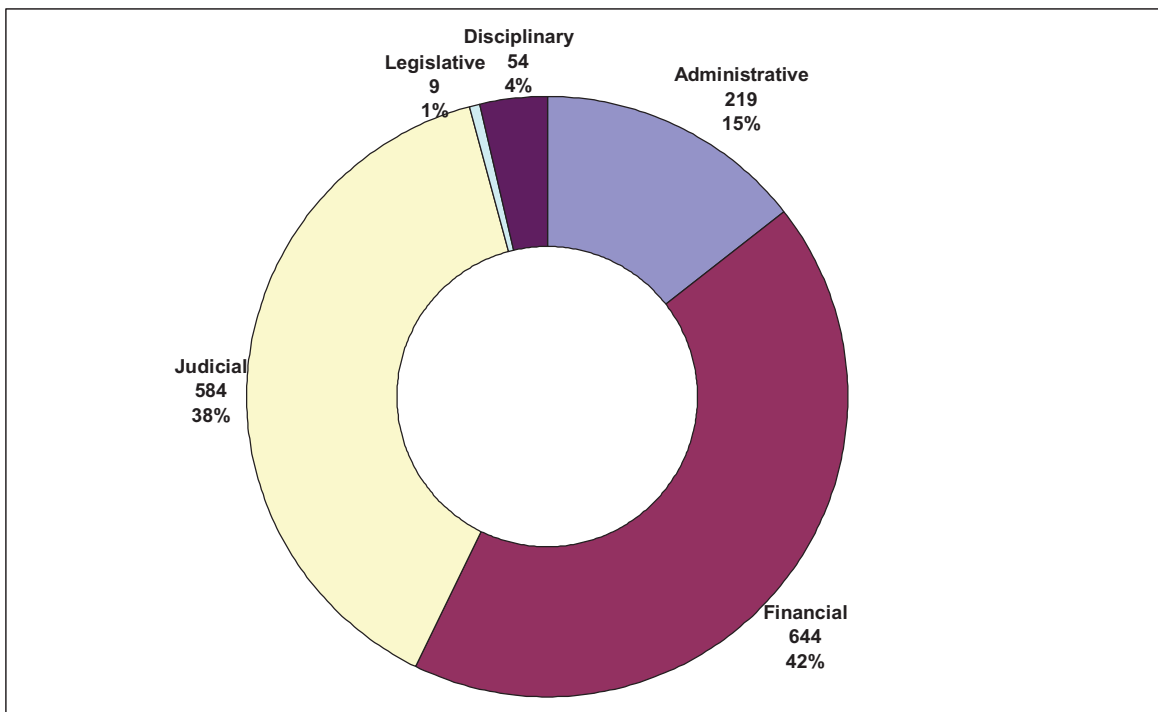
**Chart 34** highlights for the third consecutive year an increase in the number of cases in follow-up compared with the previous year. Relative to previous years, a higher number of such cases can be found in all areas except the Structural Funds. As outlined above, this confirms the trend that more cases are being closed with follow-up recommendations and that for Structural Funds, the decline in the number of follow-up paths open at the end of the year is mainly due to the particularly high number of financial follow-up cases completed during 2007, as 53 such paths were closed during that period.

**Chart 34: Cases in follow-up by area at the end of each year**

Major Area	2005	2006	2007	Change (%)
Agriculture	159	174	196	+ 13%
Cigarettes	26	28	31	+ 11%
Customs	80	97	124	+ 28%
Direct expenditure	84	86	94	+ 9%
EU institutions + bodies	61	73	88	+ 17%
External aid	87	105	124	+ 18%
Structural funds	200	211	190	- 10%
VAT	28	33	36	+ 9%
<b>Total</b>	<b>697</b>	<b>774</b>	<b>883</b>	<b>+ 14%</b>

**Chart 35** shows follow-up activities related to the 883 closed cases in follow-up at the end of 2007 (since the establishment of OLAF). The general trend which has been observed for several years is an increase in the proportion of administrative and financial follow-up actions, which together amount to more than 55% of all follow-up actions, while judicial and financial follow-up continue to be the actions most often undertaken after a case is closed. As there may be several follow-up actions related to one case, the number of follow-up activities (1 510) is higher than the number of cases in follow-up.

**Chart 35: Type of follow-up activities in respect of closed cases at the end of 2007** (Historical: data relates to all 883 closed cases in follow-up recorded since the establishment of OLAF)





### 3.4.1 Fraud-proofing

OLAF's operational experience and expertise can be used upstream in the Commission's legislative work. In 2001, the European Commission decided<sup>23</sup> to set up a preventive 'fraud-proofing' mechanism, the aim of which was to upgrade legislation and contract management in order to increase their 'resilience' to fraud. Since 2002, in cooperation with the relevant Commission services, OLAF has identified all new Commission legislative proposals and legal bases underlying EC financial operations (for example new standard contracts currently being drafted) which involved risk to EC financial interests. They have been analysed and 'fraud-proofed' wherever necessary.<sup>24</sup>

OLAF fraud-proofing activity during the period involved the analysis of numerous draft legislative texts.

In December 2007, another milestone was reached with the introduction of a new Commission approach to fraud-proofing,<sup>25</sup> based on a core strategy of using OLAF's investigative results. The operational experience accumulated by the Office should be better valued and shared with other Commission departments, and with other EU institutions and bodies. This strategy is first being implemented in relation with 'direct expenditure'. The achievements of the previous fraud proofing approach (2002-2007) were also presented in a Staff Working Paper annexed to the new Communication.<sup>26</sup>

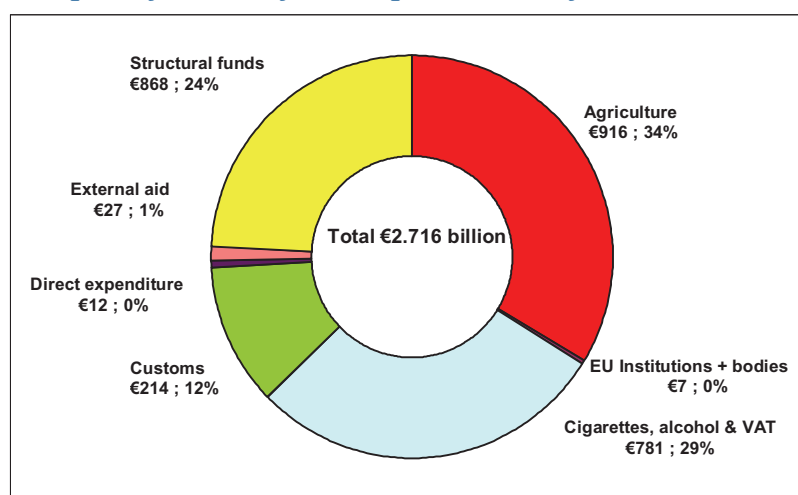
### 3.4.2 Financial and administrative follow-up

Administrative follow-up consists of verifying that national administrative authorities or Community institutions and bodies have taken all measures required to implement Community policies and law with respect to the OLAF cases in question.

As for financial follow-up, OLAF monitors and supports Member States and Commission departments to ensure that the necessary action is taken at the right time to maximise the chances of successful financial recovery in respect of OLAF's own investigation and operational activity in all budget areas.

The estimated financial impact of all cases in follow-up at the end of 2007 is shown in **Chart 36**. The global sum exceeded €2.7 billion. Compared to 2006, the respective financial impacts have substantially changed. The spread for 2007 indicates that the impact of 'Structural Funds' cases has significantly dropped (by 43%), while that of 'Agriculture' (up 64%), 'Cigarettes & VAT' (up 90%), and 'Customs' (up 50%) areas has almost doubled. Although these outline trends appear to be valid, they must nonetheless be treated with caution, given that they rely on estimates made at the early stage of evaluation and do not constitute actual forecasts of recovery. Recovery is not a continuous activity. The situation changes from one year to another due to recovery actions in very different cases in various sectors.

**Chart 36: Financial impact of cases in follow-up at the end of 2007 (in € million).** Data relate to 833 cases



23 Communication from the Commission concerning the fraud-proofing of legislation and contract management, SEC(2001)2029 final.

24 The results of the implementation of the fraud-proofing mechanism (2002-2007) have been detailed in the report SEC(2007)1676 final.

25 COM(2007) 806 final.

26 SEC (2007) 1676 Final

### 3.4.2.1 Shared management

Under the shared management of EU funds administered by the Member States (Agriculture and Structural Actions), the Member States are responsible in the first instance for the recovery of unduly paid amounts related to irregularities. It is their responsibility to pursue recovery claims against final beneficiaries and to transfer the sums recovered to the Commission. The Commission for its part is responsible for the implementing the Community budget. Many different authorities in the Member States and in the Commission are involved in recovery. It is impossible to quantify the contributions made by the different actors precisely, including the role played in financial follow-up by OLAF relating to its operational activities (external investigations, criminal assistance cases, and monitoring cases).

OLAF's financial follow-up function is to consult the Member State departments and other Commission departments responsible in order to verify that recovery activities have been undertaken and results obtained. An important step forward in restructuring and reallocating financial follow-up responsibilities was taken with the adoption by the Commission on 27/11/2007 of Working Guidelines<sup>27</sup> aimed at further clarifying activities between OLAF and the Authorising Officers by delegation in the Commission, i.e. in the Directorates-General for Agriculture and Rural Development; Regional Policy; Employment, Social Affairs, and Equal Opportunities; and Maritime Affairs and Fisheries. These guidelines **concern the financial follow-up of irregularity cases with regards to Community expenditure under shared management in the Agricultural and Structural Actions areas**. The new division of responsibilities applies from 1 January 2008 onwards and should avoid any overlap between Commission departments in relation to financial follow-up, enabling OLAF to concentrate on its core business activities in line with the recommendation of the European Court of Auditors in its Special Report 1/2005.

#### 3.4.2.1.1 Structural Funds

##### **Case study: The European Social Fund (ESF)**

After receiving two control reports prepared by the Authorising Officers in November 1998, OLAF's predecessor, UCLAF, opened an investigation into allegations of serious irregularities and possible fraud against a beneficiary of Community assistance under three different objectives co-financed by the ESF for the programming period 1994-1999.

After reviewing the documents, on-the-spot controls were carried out from March to June 1999 by a team of investigators both from the national authorities and from UCLAF. Information was uncovered that led Commission officials to believe that various irregularities had taken place in the implementation and declaration of expenditure related to ESF co-financed projects.

The level and seriousness of the irregularities was such that the Member State opened a police investigation, and invoked Article 24 of Regulation (EC) No 4253/88, thereby cancelling Community aid. In November 2000 the national authorities reported the case to the Commission and, later on, asked for Article 5(2) of Regulation (EC) No 1681/94 to be applied — i.e. for the amount involved to be borne by the Community budget.

In May 2002, the Commission decided to reduce ESF assistance, and issued recovery orders.

In June 2003, the case reached OLAF for follow-up. The Member State was asked to repay the cancelled assistance. Furthermore, in the course of the follow-up activities, it was discovered that the beneficiary had received more ESF grants from another programme, for which again the Member State asked for the application of Article 5(2).

OLAF decided, together with the Commission department concerned, to deduct the relevant amount from the Member State's final claim. In accordance with the Commission decision, and after rejecting the request to apply Article 5(2), the Commission department issued six recovery orders for a total amount of more than €5 million. Three of the recovery orders were reimbursed by the Member State in 2003, while the remaining three were paid for out of other ESF assistance paid to the Member State.

The national authorities deducted nearly €6 million from amounts due to the beneficiaries, including interest. This demonstrates that in *Structural Actions* cases it takes a long time, and good cooperation with other Commission departments, to finalise all follow-up procedures when they involve both administrative procedures and judicial proceedings at both national and European level.

<sup>27</sup> C(2007)5709



### 3.4.2.1.2 *Agriculture*

#### **Case study: Imports into the Community of high sugar content products**

In 2005 and 2006, there was an increase in imports of sugar-cocoa mixtures, mainly from certain Balkan countries. Reasonable doubts concerning the originating status of the final products arose, due to the fact that a high quantity of sugar from the EU was combined by simple mixing with a very low quantity of non-EU cocoa and then imported into the Community under preferential tariff measures.

In addition to this origin fraud, some new cases were detected concerning countries outside the Balkan region with which the Community had concluded preferential arrangements. Furthermore, the final products imported into the Community were not only mixtures of sugar and cocoa but also mixtures of sugar with other products. Consequently, a global approach was deemed necessary to counter the various fraud mechanisms, and a 'Notice to Importers' was published. In order to protect the Community's financial interests, this notice warned economic operators declaring and/or presenting documentary evidence of origin for high sugar content products that their release for free circulation might give rise to a customs debt given the reasonable doubts as to the origin of such products.

### 3.4.2.1.3 *Cooperation with other Commission departments*

#### ➤ **Structural Funds: Recoveries relating to irregularities notified**

In fields where the Member States implement the budget (agricultural policy, Structural Funds and pre-accession funds, approximately 80% of the budget) and for the collection of the Community's own resources, Community legislation requires the Member States to report suspicions of fraud and other irregularities. The remaining 20% of the budget is managed according to four different modes: directly by the Commission, indirectly via Community or national agencies, decentralised to non-EU countries, or jointly with other international institutions.

Of the approximately €1.52 billion of the Community contribution affected by irregularities in the 1994-1999 programming period, €630 million was taken into account during final payment, cancelled after closure, or paid back into the Commission budget. The Commission departments, assisted by OLAF, started reconciliation procedures with a view to closing the remaining cases for which administrative and/or judicial procedures were finalised at national level.

Concerning the 2000-2006 programming period, of the approximately €1.79 billion of the Community contribution affected by irregularities, the Member States informed the Commission that some €509 million had been recovered at national level.<sup>28</sup>

#### ➤ **Agricultural expenditure area: Task Force on Recovery**

In 2006 the joint AGRI/OLAF Task Force on Recovery (TFR) participated in the clearance of accounts procedure for the EAGGF Guarantee Section with the result that final proposals were drafted for Member States to assume financial liability for approximately 400 cases of non-recovery valued at more than €1 billion.

As a result of the TFR's activities, on 3 October 2006 a first formal Commission Decision<sup>29</sup> was taken concerning financial liability for 349 cases of non-recovery (cases of more than €500 000) totalling approximately €895 million. This Decision cleared from the debtors' lists: 41 cases totalling €176 million, which were charged to the Community budget; 164 cases totalling €317 million, which were charged to the Member States concerned, meaning that this amount would be returned to the Community budget in 2007; and 144 cases, totalling approximately €402 million, which were removed from the debtors' list as non-cases or double entries. The joint AGRI/OLAF Task Force on Recovery (TFR) ceased activity on 31 December 2006 after the entry into force of Regulation (EC) No 1290/2005. However, DG AGRI and OLAF continued to cooperate on handling the cases that had previously been examined by the TFR for which final conclusions on the financial responsibility for non-recovery had not been reached.

<sup>28</sup> Concerning financial corrections see the Report on the Protection of the Communities' financial interests (Article 280) for 2007 of the European Commission

<sup>29</sup> Commission Decision 2006/678/EC of 3 October 2006, OJ L 278, 10.10.2006, p. 24.

### 3.4.2.2 *Traditional own resources*

Administrative follow-up, which accounts for an increased proportion of all follow-up cases, includes monitoring the application of sanctions and the withdrawal of importer privileges where fraud or irregularities have been detected with regard to traditional own resources.

Financial follow-up consists of recovering the sums unduly paid or collecting the duties unpaid for different reasons (for example customs and agricultural levies after corrections arising from false origin declarations). Both kinds of follow-up activity were conducted throughout 2007 in an increasing number of cases.

Front-line financial recovery is the responsibility of the competent authorities in Member States. OLAF supports the national customs administrations by providing data from the operational case file in order to maximise the chances of timely notification of import duty debts and action taken to recover them. This includes advising national authorities when economic operators appeal against duty demands issued in cases investigated by OLAF.

#### **Case study: Evasion of a health prohibition on the importation of fishery products from China**

This multiannual fraud case, closed by OLAF in 2007, concerned the evasion of a Community health prohibition on exports of fishery products from China to the EU, which was in force between January 2002 and September 2004.

An OLAF investigation was opened, based on trade allegations and OLAF intelligence and research, which indicated that significant evasion of the health prohibition had taken place, leading to health risks and loss of revenue to the Community.

OLAF led several Community administrative cooperation missions to Asia in June 2004, with the participation of the principal Member States concerned, in the framework of five linked investigations. Evidence obtained demonstrated that significant quantities of Chinese shrimp had been imported into the non-EU (Asian) country concerned and re-exported to the EU with false origin declarations. The Community 'own resources' — customs duties — evaded in these cases were in the region of €6.5 million.

The total estimated Community own resources to be recovered in these five cases was around €15 million. Investigations into the involvement of Community importers in the fraud are currently in hand in the three primary Member States of importation. Where appropriate, breaches of the Community prohibition will lead to prosecution of the companies involved under national criminal law for evasion of health and/or customs legislation.

### 3.4.2.3 *Direct expenditure*

In the field of direct expenditure, including 'external aid', follow-up covers expenditure which the Commission implements without the involvement of Member States, or which is delegated by the Commission to non-EU countries. Follow-up activities in this field may also cover the financial and administrative follow-up of internal investigations, where appropriate.

Recovery actions may be avoided with a preventive anti-fraud policy which anticipates problems, or by taking action while a case is still open. For direct expenditure, investigations which have led to criminal proceedings often receive financial follow-up. In order to support recovery, OLAF assesses and supports the possibility of taking civil action as part of criminal proceedings in those jurisdictions where this is possible.

Administrative follow-up in 'direct expenditure' cases concentrates on helping Commission departments to apply the appropriate administrative sanctions (such as the exclusion of tenderers or beneficiaries from contracts or grants financed by the Community budget for a maximum period of five years or the payment of financial penalties) on the basis of OLAF's investigative findings.

### **Case study: Important recovery in the area of development projects**

A public prosecutor requested assistance from OLAF with an investigation he was conducting into a NGO involved in the implementation of development projects in several countries. The NGO was also a beneficiary of EC funding.

OLAF opened a criminal assistance case: the OLAF investigators assisted, as experts, the national authorities in their investigation. The investigation provided evidence of the misappropriation of financial contributions and of large sums of money being deposited in private bank accounts under the names of some of the directors of the NGO.

Once the prosecutor had informed OLAF that no further assistance was required, he authorised OLAF to transmit the findings to the relevant Directorate-General of the Commission to allow the latter to recover the misappropriated amounts. OLAF also recommended that the Commission take civil action within the criminal proceedings. The Final Case Report listed irregularities relating to 28 projects with a total financial impact of at least €2.5 million, the exact amount to be verified by the Directorate-General concerned.

As no voluntary payment was forthcoming, the Commission's Legal Service was asked to initiate the forced recovery procedure. However, within the criminal proceedings, the prosecutor valued damage to the EC at only €1.5 million. The Commission was accepted as a civil party to the criminal case, but only up to this amount.

Very early on in the criminal proceedings, the lawyers representing the directors of the NGO contacted the Commission in order to reach an amicable settlement which would reduce the possible sentences for these directors. Given that the directors indicated that they were willing to pay an amount higher than the damage accepted in the criminal proceedings but lower than the amount of the recovery orders issued, the Commission decided to accept the settlement. Shortly after the settlement was signed, the agreed amount was paid to the Commission.

### ***3.4.3 Judicial and disciplinary follow-up***

Where a case brings to light evidence of possible criminal acts and such information has not been forwarded to national judicial authorities during the course of the investigation, the Office must recommend in its final case report that the case and its file be referred to the competent national judicial authorities for further investigation and prosecution. OLAF ensures judicial follow-up with the competent national judicial authorities.

Once the decision adopted by judicial authorities becomes definitive, OLAF closes its judicial follow-up. Often, this is many years after the case was initiated by OLAF (or its predecessor UCLAF).

Where an internal investigation reveals evidence of serious matters relating to the discharge of professional duties such as to constitute a dereliction of duty on the part of an official or other servant of the Communities liable to result in disciplinary proceedings, OLAF will recommend that the case and its file be referred to the appropriate EU authorities competent for disciplinary matters, for appropriate disciplinary action. OLAF ensures follow-up with the authorities. To this end, the Office maintains contact both with the disciplinary services of the different institutions and with other European bodies and agencies. OLAF is available to assist these departments in disciplinary proceedings, and monitors the outcome of the cases for the same reasons that it monitors judicial proceedings.

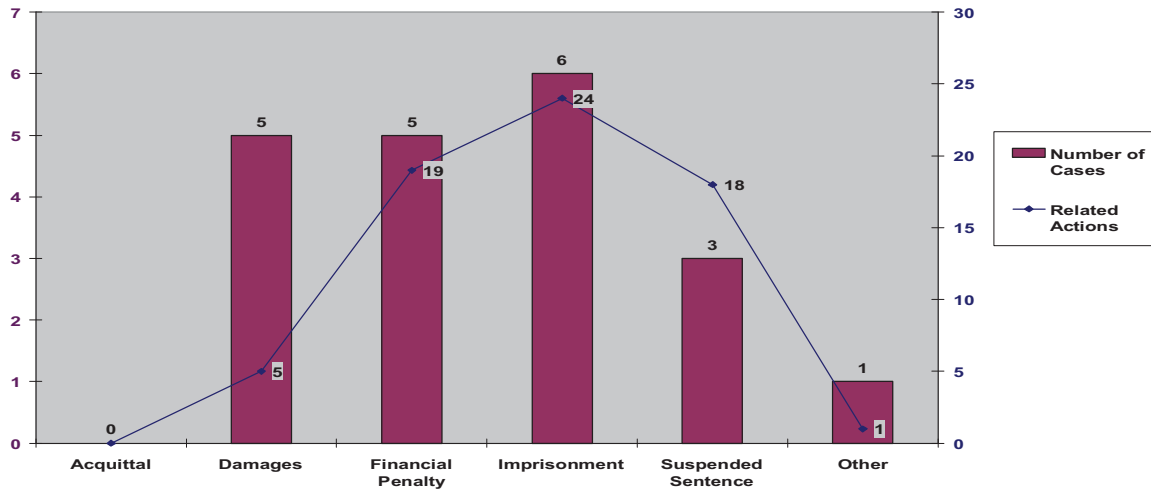
Finally, in those situations where the same case has been sent to both judicial and disciplinary authorities, OLAF aims to ensure a consistent approach by liaising with both.

#### ***3.4.3.1 Judicial follow-up***

**Chart 37** shows judgements made in 2007. They are broken down into six different categories of ruling adopted by the judges.

A total of 67 actions corresponding to 20 decisions were undertaken for the protection of the EC's financial interests. A significant proportion of these actions resulted in imprisonments (24). The three other most frequent actions were financial penalties (19), suspended sentences (18) and damages (5). No suspects were acquitted in 2007.

**Chart 37: Summary of judgments received in 2007**



**Chart 38** provides a breakdown of the number of cases for which Public Prosecutors decided not to proceed with charges, along with the reasons given by the relevant national authority. Lack of evidence was by far the main reason for dropping cases, occurring in almost one third of dismissals.

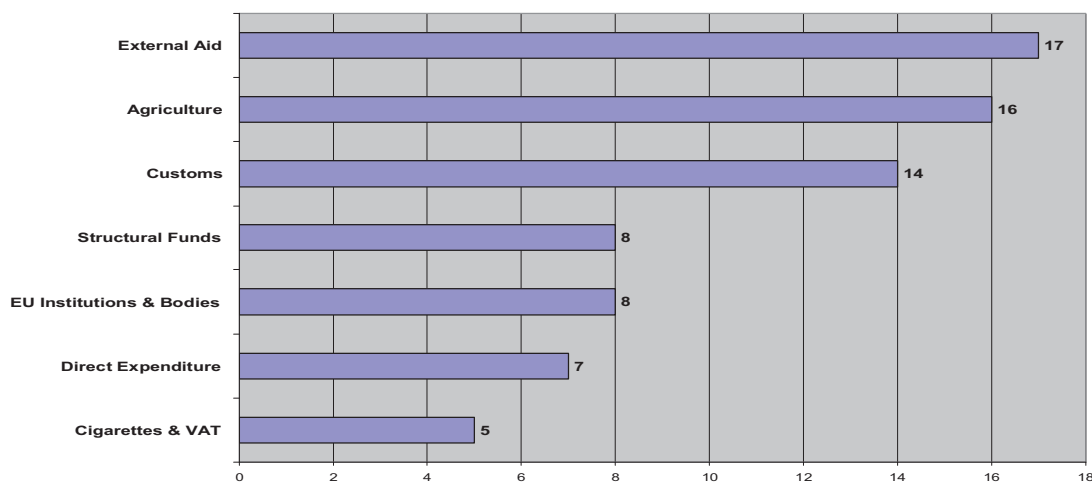
**Chart 38: Summary of reasons given by Public Prosecution Offices in cases dropped in 2007**

Reason for dismissal	Number of Actions
Prescription	3
Lack of evidence	7
No public interest	2
No legal basis	2
Procedural errors	1
Not specified	8
Other	1
<b>Total</b>	<b>24</b>

Data relate to 20 cases

**Chart 39** shows a breakdown of 75 judicial follow-up paths<sup>30</sup> opened in 2007. ‘External aid’ was again the area with the highest number of judicial follow-up actions opened, followed closely by ‘Agriculture’ and ‘Customs’.

**Chart 39: New judicial follow-up paths opened in 2007 by area**



<sup>30</sup> Where an investigation brings to light evidence of possible criminal acts and this information has not been forwarded to national judicial authorities during the course of the investigation, a recommendation is made that the case be referred to the competent national judicial authorities for further investigation and prosecution. A regular judicial follow-up with the competent national judicial authorities is subsequently made by OLAF.

### 3.4.3.2 Disciplinary follow-up

**Chart 40** shows that there were 80 cases resulting in disciplinary follow-up at the end of 2007.

**Chart 40: Disciplinary Follow-up Summary in 2007 (Data relate to 59 cases)**

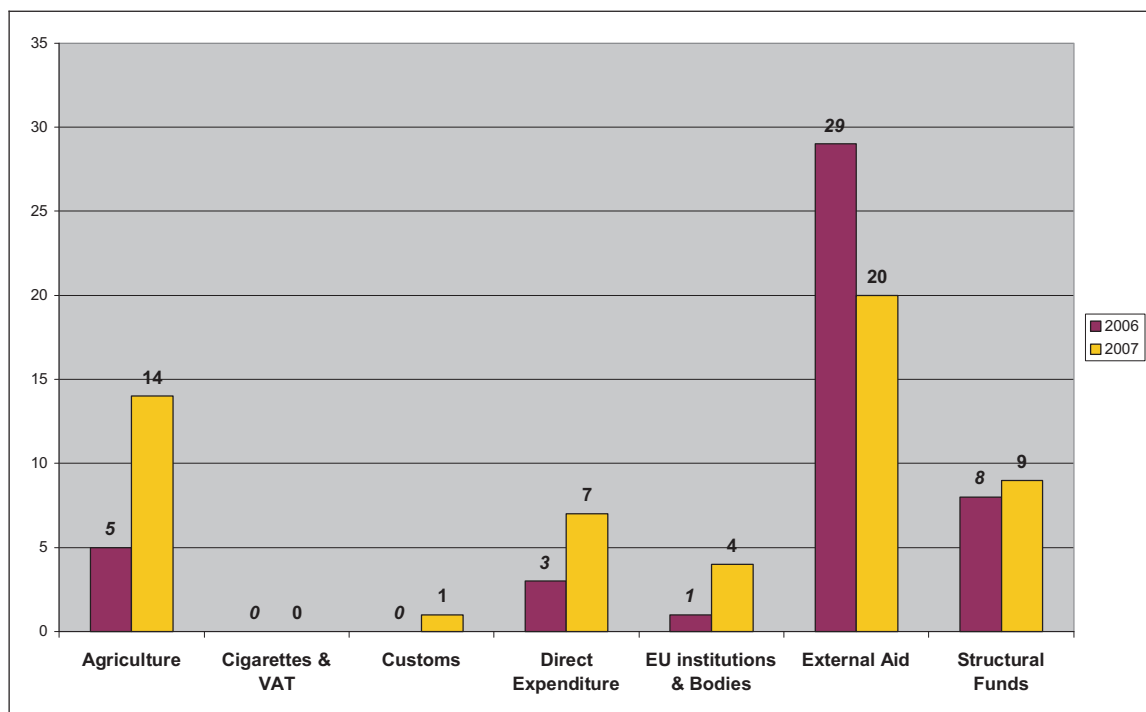
Stages	Total
OLAF Internal Review	4
Report sent to Disciplinary authority	29
Disciplinary Procedure	21
AIPN Decision	7
End of Proceedings	19
Appeal	0
<b>Total</b>	<b>80</b>

### 3.4.4 Monitoring actions

OLAF receives information relating to cases that have been followed by national administrative or judicial authorities. OLAF may decide not to conduct any operational activity but will nevertheless ‘monitor’ the development of the proceedings conducted in the Member State.

**Chart 41** shows the number of monitoring actions opened in 2007. Within a lower total number of such actions in 2007, some 40% still concerned ‘external aid’, due to the latter’s importance in OLAF’s workload. The total number of new actions (55) has increased by 50% since 2005.

**Chart 41: New monitoring cases linked to judicial proceedings in 2006 and 2007**





## 4 Operational support

### 4.1 Intelligence activity

Intelligence activity consists of providing strategic and operational analysis, case studies and other support to investigators based on information collected prior to and during a case.

Intelligence activity which is intended to provide a source of information for OLAF is called **strategic intelligence**. Strategic intelligence evaluations may lead to the opening of specific cases, or provide more general guidance relevant to policy development and operational strategy.

Conversely, activities aimed at providing specific case-related operational support in the context of an ongoing OLAF evaluation or during the open stage of a case are known as **operational intelligence**.

#### 4.1.1 Strategic intelligence

OLAF's strategic intelligence capability is intended to support operational activities and reinforce OLAF's policy role. A new focus of strategic intelligence capability was agreed in June 2007, balancing the need to support both the Commission's anti-fraud policy objectives and the requirements of OLAF's operational units.

In 2007, activities in the area of strategic intelligence included the following:

- Six projects were agreed with internal and external stakeholders and launched in mid-2007. Results are expected in the course of 2008.
- A number of risk evaluations based on reports of irregularities in the funding of the Common Agricultural Policy and Structural Funds were produced to support the Office in setting priorities for control and case-related policies.
- Analyses of irregularities and frauds were presented to Member States' authorities in order to highlight trends and major weaknesses in the areas of shared management (agriculture and structural actions), notably within the scope of the statistical annex to the Commission's Report on the Protection of the Financial Interests of the Communities — Fight Against Fraud (Article 280 Report).
- Analyses by country have been provided for structural actions in the framework of annual bilateral meetings with Member States.
- Training and support were offered to the new Member States and candidate countries to prepare them for reporting and analysing irregularities in these areas.
- Cooperation with anti-fraud intelligence units in the Member States, candidate countries, non-EU countries and other international institutions was further strengthened.
- Progress was made in developing new tools and techniques to gather and make use of information and to identify new and improve existing sources. A new methodology was developed and adopted to provide a standardised framework for conducting risk assessments.

#### 4.1.2 Operational intelligence

In 2007, operational intelligence activities contributed to the level of accuracy and completeness in OLAF case assessment and investigative stages using specialised skills and tools to make complex information manageable for users. This has resulted in intelligence increasingly becoming an integral part of the investigative process,



particularly in enhancing initial information highlighting links between people, organisations and their financial interests in EU projects.

Operational intelligence activities include:

- providing hands-on expertise in Commission internal or external commercial databases and open sources, which can entail identifying the total expenditure relative to a particular case, trade statistics, checks on companies and persons worldwide or background information on vessels, ports and containers;
- information platform and logistical support in assisting Member States' customs authorities and for Joint Customs Operations, providing access for 27 Member States to a standard set of databases on the basis of best global coverage and quality of content together with analysis to identify ways of making controls much more risk and intelligence-based;
- assisting with comparative and other more complex analysis; analysing, linking and visualising high volumes of data using I-base environments to produce Analyst Notebook charts, event charts and geographical presentations;
- Operational analyst support (enhancing initial information; offering visualisation, link analysis and text mining capabilities; providing the Member States and Commission operational DG's with Automated Monitoring tools and pattern detection linked to trade alerts) and presenting workshops illustrating a much higher degree of involvement than before;
- forensic computing and scanning support: electronic data are forensically acquired on the spot: all data including encrypted, hidden, deleted or unallocated data are made accessible, readable and searchable — often the data are accessible only to the computer forensic expert using proper forensic tools;
- pre-processing of data with a view to subsequent analysis, which often consists of scanning, processing for optical character recognition and indexing electronic data. Data preparation also requires considerable data cleaning; text mining<sup>31</sup> may help uncover the entities named in a large data set.

In 2007, OLAF expanded its scope in the field of computer forensics by contributing to the strengthening and effectiveness of Community actions and assisting Member State partners with forensic investigations and examinations. OLAF contracted Germany's *Bundeskriminalamt* (BKA) to organise a computer forensics training course at European level for the benefit of OLAF's law enforcement computer forensics partners. The successful outcome led to positive results towards improving: trans-national cooperation between specialists in the Member States and OLAF's Computer Forensic Team; exchanges of information, experience and best practice to support operations in Member States or for OLAF investigations in the Member States; and developing a contact network within EU law enforcement agencies in this highly specialised domain.

After a case has been opened, operational intelligence activities may entail more sophisticated techniques such as advising on and coordinating the use of specialised investigation methods, or drawing on a network of contacts in enforcement agencies in the Member States, in non-EU countries or with international organisations.

## 4.2 Legal and judicial advice

The Case Management System (CMS) provides for a 'legal and judicial advice module' to provide legal support for operational activities. This tool enables OLAF operational staff to request advice on specific cases from OLAF's legal units. As the legal advisers have access to the case file, this facility brings them directly into the context of the case. It also ensures effective coordination and communication and better organisation and archiving of work in the legal units.

<sup>31</sup> Text mining refers generally to the process of extracting interesting and non-trivial information and knowledge from unstructured text.



During 2007, legal and judicial advice played a significantly increased role in operational cases. In addition, during the active investigation stage, members of the judicial advice unit were nominated members of investigation teams on 143 occasions involving a total of 103 cases.

Since 2006 '*Structural Funds*' has overtaken '*External aid*' and '*EU institutions and Bodies*' as the most prominent area for which legal advice is provided. It accounts for around one in three instances.

Legal and judicial advice includes the following:

- advice on issues that arise in specific cases concerning the interpretation of the Community legal framework governing OLAF's performance of its investigative tasks, as well as other, more general, Community legal requirements such as professional secrecy, the extent of immunity, EC employment law, the territorial scope of application of OLAF investigative powers, the extent and limits of OLAF's independence, and relations with the Commission, the other Community institutions and bodies and Member States;
- advice on problems experienced in OLAF's operation that require solutions to do with the Commission's sphere of competence (e.g. infringements by Member States of their duties to cooperate with OLAF during a case);
- advice on setting up practical arrangements for cooperation with other bodies such as Europol and Eurojust, taking into account the overall legal framework of the European Union.



## 5 Cooperation with OLAF's partners in the fight against fraud

### 5.1 Cooperation with the Member States

OLAF's consultation of Member State experts is organised as set out in the table below:

*Chart 42: Structures for consultation*

Committees/working-groups where OLAF represents the Commission
<ul style="list-style-type: none"> <li>• <b>COCOLAF (Advisory Committee for the Coordination of Fraud Prevention):</b> <ul style="list-style-type: none"> <li>• Article 280 working group</li> <li>• Irregularities and Mutual Assistance — Agricultural Products — Group</li> <li>• Group on risk analysis on fraud and irregularity</li> </ul> </li> </ul>
• <b>ECEG (Euro Counterfeiting Experts Group)</b>
• <b>CCEG (Counterfeit Coin Experts Group)</b>
• <b>OLAF Anti-Fraud Communicators Network (OAFCN)</b>

In the course of 2007, two COCOLAF meetings, two Article 280 Group meetings, one 'Statistical analyses of irregularities' Group meeting, two meetings of the Agriculture sector<sup>32</sup> group and two Mutual Assistance Committee meetings were held.

The Euro Counterfeiting Experts Group (ECEG) met three times.

The Memorandum of Understanding signed by the General Prosecutor of the Italian Court of Auditors and the Director-General of OLAF in 2006 to establish a system of cooperation with judicial audit authorities in Italy was implemented in 2007.

### 5.2 Anti-Fraud Information System (AFIS) / Customs Information System (CIS)

#### 5.2.1 AFIS

The IT System AFIS (Anti-fraud Information System), a secure communication system, supports and facilitates the exchange of anti-fraud information among the relevant authorities of the Member States and between them and the Commission. AFIS is primarily used by the Member States and OLAF for mutual administrative assistance in customs and agricultural matters.

The objectives for 2007 were twofold:

- ensuring internal and external quality management of AFIS in OLAF
- ensuring the smooth running of the new AFIS system, comprising new applications using new technologies.

In order to ensure internal and external quality management of the AFIS project in OLAF, calls for tenders were launched to conclude contracts for AFIS production, development, quality assurance and control. The procurement procedure was completed at the end of 2007. The development lot was successfully replaced by an internal team in the absence of an acceptable external bid.

In addition, the permanent Operational Coordination Unit (OCU) provides logistical and technical support for joint customs operations. Virtual-OCU is an application that allows participation in joint customs operations activities

<sup>32</sup> 'Irregularities and Mutual Assistance — Agricultural Products, Regulations (EEC) N°595/91 and (EC) N°515/97'

without attending in person. OLAF supported five joint customs operations through the OCU in 2007 (see point 3.3.7).

## 5.2.2 CIS/FIDE

### *Customs Information System (CIS)*

The Customs Information System (CIS), based on Council Regulation (EC) No 515/97 and the CIS Convention, became fully operational in 2003. The CIS was created to store information on commodities, means of transport, persons and companies in order to assist in preventing, investigating and prosecuting actions which are in breach of Community customs and agricultural legislation ('first pillar') or serious breaches of national laws ('third pillar'). The initial level of use of the CIS by national authorities has been disappointing. From the launch of the system in March 2003 until the end of 2004, only 140 cases were registered in the Customs Information System (CIS) database.

OLAF and the customs services of a number of Member States have adopted a strategy for increasing the use of what is potentially a powerful tool for cooperation between customs administrations. This strategy has begun to produce its first benefits. By the end of 2007, 490 cases were stored in the Customs Information System (CIS) database. These cases are accessible to some 1850 users located in the main ports, airports, border posts, risk analysis units, investigation and intelligence services.

For the CIS first-pillar database, to which (unlike the third-pillar equivalent) the Commission (OLAF) has unlimited access, the active cases are related to the following type of fraud alert:

*Chart 43: First pillar alerts to active case (historical)*

Type of Alert	Figure 2006	Proportion 2006	Figure 2007	Proportion 2007
Counterfeit goods (including cigarettes)	576	76.0%	313	63.0%
CITES (Endangered species of flora and fauna)	105	13.9%	59	11.0%
Smuggling of genuine cigarettes	21	2.8%	47	10.0%
Safety of the products	-	-	28	6.0%
Misdescription of goods (CN code included)	13	1.7%	8	2.0%
False origin of goods	7	0.9%	3	1.0%
False customs value	2	0.3%	8	2.0%
Precursors (Chemical products for narcotics)	2	0.3%	1	0.0%
Cash control (money)	2	0.3%	4	1.0%
Others (average 1 case each: transit, excise, human beings, dual-use)	30	4.0%	19	4.0%
<b>TOTAL</b>	<b>758</b>	<b>100.0%</b>	<b>490</b>	<b>100.0%</b>

### *FIDE*

Further to the adoption in 2003 of the protocol amending the Convention adopted in 1997 on the use of information technology for customs purposes, OLAF conducted a feasibility study on setting up a database aimed at collecting, for analysis purposes, data commonly used in international trade by the principal suppliers of services relating to the international transportation of goods and, in particular, of the international transportation of goods by container.<sup>33</sup>

<sup>33</sup> EU Container Targeting System.

A Commission proposal<sup>34</sup> to amend the Regulation on mutual assistance on customs and agricultural matters<sup>35</sup> moved through the legislative process in 2007, laying down the legal framework for this European Customs Files Identification Database (FIDE) and providing for the creation of this European data directory.

FIDE should allow national and Community (OLAF) operational services to identify services which have conducted an investigation activity concerning the same person(s) or enterprise(s). Using search and interrogation features, FIDE will be able to provide a customs authority with an overview of current or historical irregular activities by persons or companies in other Member States. If a search is successful, the customs authority will receive from FIDE all necessary information to contact the Member States' customs department(s) dealing with relevant investigations.

The proposal provides a legal basis for the management of a permanent infrastructure for coordinating joint customs surveillance operations, making it possible for representatives or liaison officers from the Member States to be received by OLAF during each surveillance operation.

At the time of reporting, FIDE was expected to be in production by the summer of 2008.

FIDE will bring the following overall benefits:

- simplifying the investigation process for local and Member State customs cases;
- reducing the time spent in searching and collating relevant information for investigating local and Member State customs cases;
- expanding access and the volume of case-relevant data available to customs investigations services;
- boosting efficiency and making effective use of investigation resources due to the larger volume of better quality data.

### **Anti-fraud Transit Information System**

Following the introduction of the New Computerised Transit System (NCTS), OLAF, in agreement with other Commission departments, drafted an administrative arrangement for introducing the Anti-fraud Transit Information System (TIS) intended to provide important information on national and international movements of sensitive goods. The current Customs Early Warning System (EWS-C) will be retained exclusively as a fallback procedure in order to cover any periods of NCTS downtime and thus ensure the uninterrupted provision of pre-arrival information for transit movements of sensitive goods. The proposal was discussed by the EC/EFTA Working Group on Common Transit and has been approved.

## **5.3 Preparing candidate countries**

OLAF's activities in connection with EU enlargement include contributions based on its operational work to the development and implementation of policy on preparing candidate countries and potential candidate countries for accession.

In the course of 2007, OLAF was involved preparing and conducting the screening sessions for Croatia and Turkey on Chapter 32 (Financial Control). No accession negotiations have yet opened with the third candidate country, the Former Yugoslav Republic of Macedonia.

From the beginning of accession negotiations with Croatia and Turkey in October 2005, OLAF worked to set up the necessary administrative structures for the fight against fraud and the protection of the EU's financial interests in each country. Both countries expressed their commitment to setting up such structures. Croatia nominated a unit within the Ministry of Finance as the AFCOS central contact point (Anti-Fraud Coordinating Structure). In the meantime Turkey nominated the Prime Minister's Inspection Board (PMIB) as an interim contact point for OLAF pending the designation of a permanent AFCOS central point and structure.

Initial contact was also made with the relevant authorities in the Former Yugoslav Republic of Macedonia for the same purpose: in September, the Financial Police based in the Ministry of Finance was designated as the AFCOS

34 COM(2006)866.

35 Regulation (EC) No 515/97.

central contact point in FYROM and in such capacity attended the AFCOS Round Table Meeting in Ljubljana in October.

In a broader perspective, OLAF is also part of the so-called Investigation Task Force established in Kosovo<sup>36</sup> in 2003 by the United Nations Mission in Kosovo (UNMIK) Special Representative of the Secretary General.

The Task Force consists of representatives designated by OLAF, the Office for Internal Oversight Services of the UN and the Financial Investigation Unit of UNMIK. It has the authority to initiate and conduct administrative investigations to identify fraud and corruption in UNMIK, in the Provisional Self-Government in Kosovo and in publicly and socially-owned enterprises.

## 5.4 Mutual administrative assistance

Implementation of the mechanisms for mutual administrative assistance in customs matters, such as those contained in protocols to EC trade and/or cooperation agreements is essential to the defence of legitimate commercial interests.

During 2007, OLAF was the Commission department responsible for the inclusion and negotiation of Mutual Administrative Assistance (MAA) and, in the case of preferential trade agreements, anti-fraud provisions (protective measures) in a number of trade and/or cooperation agreements with non-EU countries. A Stabilisation and Association Agreement and an Interim Trade Agreement were signed with Montenegro on 15 October 2007 and the interim agreement entered into force on 1 January 2008.<sup>37</sup> An Agreement on Cooperation and Mutual Administrative Assistance in Customs Matters was initialled with Japan on 12 June 2007, signed on 30 January 2008 and entered into force on 1 February 2008.<sup>38</sup> Stabilisation and Association Agreements were initialled with Serbia (7 November 2007; signed on 29 April 2008) and Bosnia and Herzegovina on 4 December 2007, and Economic Partnership Agreements were initialled with 35 African, Caribbean and Pacific (ACP) countries, in seven regional groupings, in November and December 2007. Following the adoption by the Council of negotiating directives, negotiations also began in 2007 on free trade/association agreements including MAA and anti-fraud provisions with Central America, the Andean Community, India, Korea, Ukraine and ASEAN countries, and continued with the Arab States of the Gulf.

The Council Regulation on controls on cash entering or leaving the Community came into force in June 2007. This Regulation refers to Regulation (EC) No 515/97 concerning mutual assistance and stipulates that information must be sent to the Commission when there are indications that sums of cash involve the proceeds of fraud or any other illegal activity adversely affecting the financial interests of the Community.

## 5.5 The Philip Morris International (PMI) and Japan Tobacco International (JTI) Agreements

In 2004, the European Community and 10 Member States<sup>39</sup> concluded an agreement with the cigarette manufacturer Philip Morris International (PMI) to introduce an effective system for combating the smuggling and counterfeiting of cigarettes. Under this agreement, approximately one billion dollars will be paid over a 12-year period to the European Community and to the 10 Member States which were party to the agreement in July 2004. During the period between the signing of the agreement and the end of 2007, PMI paid almost USD 575 million (approximately €364.5 million). Since then, 16 more Member States<sup>40</sup> have signed the agreement.

In December 2007, the European Commission and 26 Member States<sup>41</sup> signed a cooperation agreement with Japan Tobacco International (JTI). The agreement, which runs for 15 years, makes provision for the payment of USD 400

<sup>36</sup> Under United Nations Security Council Resolution 1244/99

<sup>37</sup> OJ L 345, 28.12.2007.

<sup>38</sup> OJ L 62, 6.3.2008).

<sup>39</sup> Belgium, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and Finland.

<sup>40</sup> Bulgaria, the Czech Republic, Estonia, Ireland, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Romania, Slovenia, Slovakia and Sweden.

<sup>41</sup> The United Kingdom is not a party to this agreement.

million (approximately €250 million), which could be used to combat the smuggling and counterfeiting of cigarettes. The agreement shares all the main features of the agreement with PMI.

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

In 2007, the new strand of the Hercule II programme to combat the smuggling and counterfeiting of cigarettes ensured that co-financing was provided for two training courses organised by the Member States and for scanning equipment used to detect smuggled cigarettes; the total estimated amount of co-financing was above €5 million. The programme also provided funding for the purchase by OLAF of specialist technical equipment and technical support for monitoring illegal activity in order to combat cigarette smuggling and counterfeiting (see point 5.9.2).

OLAF's twelfth international conference on cigarette smuggling and counterfeiting, which was organised together with the Hungarian Customs and Finance Guard, was attended by experts representing the 27 Member States, some non-EU countries, Europol, the WCO<sup>42</sup> and OLAF. This annual conference provides a forum for discussion among participants and makes it possible to identify emerging trends in cigarette smuggling and improve operational cooperation.

## 5.6 WHO framework convention on tobacco control

The Commission (OLAF and DG SANCO) took part in an international conference in Montevideo (Uruguay), which was organised by the World Health Organisation (WHO). It aimed to pave the way for the negotiations, which began in Geneva (Switzerland) in February 2008 on a protocol concerning the WHO framework convention on tobacco control.<sup>43</sup> This protocol will deal specifically with efforts to combat the illicit trade in tobacco products. The Commission played a major role in the original negotiations concerning Article 15 of the framework convention, which relates to illicit trade. The Commission, with OLAF playing an important role, will continue to support the negotiations concerning the protocol, with a view to ensuring that more detailed provisions are adopted.

## 5.7 Cooperation with bodies in charge of police and judicial cooperation

In continuation of the Eurojust initiative to bring heads of EU organisations working in the EU area of Justice, Freedom and Security together, OLAF participated to the second meeting of 'Heads of EU Justice and Home Affairs agencies' organised by Europol on 26 June 2007.<sup>44</sup> This was despite OLAF not being formally an EU JHA agency. Nonetheless, OLAF participated because of the relevance to the meeting of OLAF's independent investigative role in the protection of EC financial interests.

Based on the preparatory work of the OLAF-chaired technical meeting of the legal and data protection officers of the 'EU JHA agencies', held on 19 and 20 April 2007, the 'Heads of EU JHA agencies' agreed on a conclusion, according to which they noted that the 'EU JHA agencies' — insofar as their legal framework envisaged the processing of personal data for operational purposes — consider each other as providing an adequate level of data protection, including security measures, and as offering the same level of protection as regards the handling of information. They also invited the technical meeting of the legal and data protection officers to continue its work, so as to further increase mutual understanding on the exchange of information.

<sup>42</sup> World Customs Organisation.

<sup>43</sup> This came into force on 27 February 2005.

<sup>44</sup> The 'EU JHA agencies' meeting comprise Eurojust, Europol, OLAF, the EU Joint Situation Centre, Frontex (European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU) and CEPOL (the European Police College), plus Council working groups, such as the Police Chief Tasks Force (PCTF) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).



### 5.7.1 Eurojust

In 2007 OLAF continued to work towards making its cooperation with Eurojust more efficient under the Memorandum of Understanding signed in 2004. The Decision establishing Eurojust indicates that Eurojust ‘*shall establish and maintain close cooperation with OLAF. To that end, OLAF may contribute to Eurojust’s work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation*’.

Since the establishment of the joint Liaison Working Group in 2004, cooperation on cases of common interest has increased. These groups met in The Hague in June and in Brussels in September. In 2007 OLAF involved Eurojust in two cases through these joint Liaison Working Groups.

The First OLAF/Eurojust Joint Seminar was held on 26 and 27 March 2007 on fraud and corruption affecting the European Communities’ financial interests, with the aim of improving cooperation between Member States and both agencies. The outcome was successful and a second Joint OLAF/Eurojust Seminar is to be held in The Hague in March 2008.

The President of Eurojust and the Director-General of OLAF met in April in Brussels and in June in The Hague to review joint activities and discuss further development of the cooperation.

As part of the OLAF–Eurojust exchange programme, the four Directors of OLAF visited Eurojust in September. During this visit, they attended the Eurojust College Plenary Meeting and discussed possible development of the cooperation system.

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

### 5.7.2 Europol

Since the signing of the administrative arrangement with Europol in April 2004, regular meetings have taken place between members of OLAF Intelligence units and their counterparts in the economic crime section of Europol. In 2007, three technical meetings took place, including a high-level meeting between the Director-General of OLAF, Mr Brüner and the Director of Europol, Mr Ratzel, on 18 July 2007.

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

## 5.8 Protection of the euro

OLAF continues to coordinate Member State efforts to protect the euro against counterfeiting in close cooperation with Europol and the European Central Bank (ECB).

In 2007, three meetings of the Euro Counterfeiting Experts Group (ECEG), in the framework of the Anti-Fraud Advisory Committee (COCOLAF), brought together experts from the competent authorities, judiciary, financial authorities and central banks of the Member States and candidate countries, as well as from European institutions and bodies and Interpol.



In 2007, the Commission took a number of steps to protect the euro with the support and expertise of OLAF. A proposal for a Regulation<sup>45</sup> aiming to improve protection against counterfeiting was sent to the Council. The proposal introduces an obligation for the relevant institutions to check the authenticity of coins and notes before they are put back into circulation. The proposal also aims to authorise the transfer of counterfeit money between the national authorities and the EU institutions and bodies so that the authenticity of money can be checked.

The Commission also took stock of the criminal penalties and other sanctions against counterfeiting adopted by the Member States,<sup>46</sup> following the framework decision adopted by the Council in 2000. The measures introduced would generally appear to be as effective and efficient as they are required to be under the framework decision, given that the requisite charges and penalties have, for the most part, been incorporated into the legislation of the Member States.

Operationally, the Commission (OLAF) has continued, through the measures taken under the Pericles Programme,<sup>47</sup> to promote cooperation between the national, European and international authorities responsible for combating counterfeiting of the euro. Over 80% of the Pericles Budget 2007 — €1 million — was committed: twelve projects were launched, including seven proposed by the Member States and five by the Commission/OLAF.

The majority of these projects, designed for experts from the Member States and candidate countries, had a pedagogic purpose (planning of training sessions and activities aiming at familiarising the experts with counterfeiting techniques, etc.). Pericles also contributed to two large-scale seminars, to bring together representatives of the Member States, Latin America and the Caribbean Countries to strengthen cooperation with non-EU countries on combating counterfeiting of the euro.

Within OLAF, the European Technical and Scientific Centre (ETSC) continued to analyse and classify counterfeit euro coins, the number of which increased by 29% in 2007, to 211 000. To protect euro coins, OLAF continued to coordinate Member States' technical measures, notably through the Counterfeit Coin Experts Group (CCEG), which met three times in 2007.

## 5.9 External activities and internal training

### 5.9.1 OLAF conferences

OLAF itself organised 10 conferences and seminars in 2007 for training purposes in priority areas such as cooperation with candidate countries, investigations in cooperation with national services, communication and cooperation with national prosecutors:

- Conference on 'Corruption Affecting the European Communities' Financial Interests', 26-27 March in Brussels in cooperation with Eurojust;
- 8th Conference of International Investigators, Vienna, 9-11 May;
- 1st Conference on the 'protection and optimisation of public funds' in the area of external aid, Rabat, Morocco, 14-16 May;
- 7th Training Seminar of the OLAF Anti-Fraud Communicators Network (OAFCN), Vienna/Bratislava, 23-26 September;
- Anti-Fraud Coordination Service (AFCOS) Conference, Ljubljana, Slovenia, 11-12 October;
- 5th OLAF Conference of Fraud Prosecutors, Brussels, 18-19 October;
- Operational Cooperation within the European Commission, Brussels, 24-25 October;

<sup>45</sup> Proposal for a Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the Euro against counterfeiting, COM(2007) 525 final.

<sup>46</sup> Third report from the Commission based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the Euro, COM(2007) 524 final.

<sup>47</sup> Council Decision of 17 December 2001, OJ L339 of 21 December 2001.

- International Cooperation against fraud and corruption, Buenos Aires, Argentina, 11-14 November;
- EUROCANET Seminar, Lisbon.

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**Focus on:** The 1st Conference on the “protection and optimisation of public funds”, Rabat, Morocco, 14-16 May 2007<sup>48</sup>

The first regional conference on the ‘Protection and Optimisation of Public Funds’ in the area of external aid was held in Rabat, Morocco, between 14 and 16 May 2007, at the initiative of the European Commission (OLAF/EuropeAid), the European Investment Bank (EIB) and the Inspectorate General of Finances of the Kingdom of Morocco. Bringing together 25 countries, the conference focused on the theme of sound financial management and protection of the financial interests of the European Community, stressing the importance of cooperation between the competent authorities at national and international level to ensure the best protection of public funds.

Participants underlined that the promotion of sound management and efficient control of public funds relies on political commitment and sufficient resources allocated to preventing, fighting and investigating frauds and corruption affecting the European Union development aid, and national budgets.

To achieve these goals, the Conference participants agreed on recommendations to establish appropriate ‘cooperation frameworks’ between the European Commission and the interested national, regional and international organisations, in the context of the current decentralisation and dispersal of the Community’s external aid.

Since this first conference, cooperation arrangements have been signed between the European Commission (OLAF and EuropeAid) and administrative control bodies and law enforcement agencies in six countries, and with an African regional organisation for State Control Bodies (FIGE – Forum des Inspections Générales d’Etat).

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### 5.9.2 *Hercule programme*

The Hercule programme was set up to promote activities to protect the Communities’ financial interests.<sup>49</sup> In 2007 the European Parliament and the Council decided to extend the programme for the period 2007-2013.<sup>50</sup>

The Budget Authority decided to increase the budget for the programme by €44 million (€6 million for 2007) to include within it a new strand to provide financing for training measures and the purchase of equipment to combat cigarette smuggling (also see point 5.5).

The decision to amend the legal base of the Hercule programme was taken only in July. Nevertheless, the procedure for implementing the programme was started without delay and allocation was organised on schedule. This allowed global commitment (level 1) of almost the entire budget for 2007 and more than half of the total budget for the year of €13.574 million has already been employed under the project financing agreements.

This allowed grants to be made, o-financing 14 projects in the education field, 24 projects on technical assistance and 11 legal research actions. Among these projects are several international activities, such as conferences to ease operational exchanges, as well as support for some national authorities, e.g. for the purchase of the equipment to facilitate smuggling detection, or technical assistance.

### 5.9.3 *Internal Training*

OLAF put renewed emphasis on internal training, in particular by providing tailor-made courses for investigators and for new staff. On top of the 597 man/days of general training offered by the catalogue of the Personnel and

<sup>48</sup> For more information, see OLAF’s Internet website at [http://ec.europa.eu/anti\\_fraud/conf/rabat/i\\_en.html](http://ec.europa.eu/anti_fraud/conf/rabat/i_en.html)

<sup>49</sup> [http://ec.europa.eu/anti\\_fraud/programmes/index\\_en.html](http://ec.europa.eu/anti_fraud/programmes/index_en.html).

<sup>50</sup> Decision No 878/2007/EC on the Hercule II programme (OJ L193, 23.7.2007).

Administration DG, OLAF's Training unit designed and organised more than 474 man/days of anti-fraud training and 99 man/days of specialised language training concentrating on legal and technical terms.

488 staff attended 12 different courses, including interviewing techniques (two sessions), gathering evidence (two sessions), whistleblowing (one session), two seminars on ethics and six specific language courses. For newcomers, welcome sessions (four courses), operational intelligence (two sessions) and document and security management training (five sessions) were organised.

An information seminar on the Independent Commission against Corruption (ICAC) from Hong Kong was also given by Mr Simon Ho, Chief Investigator of ICAC. Two 'away days' for OLAF management were also set up and mentorship for new staff was introduced for the first time. In addition, 36 officials attended specialised anti-fraud seminars in 16 different universities or bodies around the world.

## 5.10 Information and communication

### 5.10.1 Data protection officer

Compliance with Regulation (EC) 45/2001 on data protection<sup>51</sup> is a comprehensive and challenging aspect of OLAF's operational work, in particular since the requirements of data protection must be balanced with the fulfilment of OLAF's investigative and operational tasks. OLAF staff must at all times respect the rules on the protection of personal data laid down in Regulation (EC) 45/2001, in particular the requirements on data quality, providing information to the data subject, rights of the data subject regarding access, rectification, blocking, and erasure.

As a data subject, the person concerned has the right of access to his or her personal data contained in the file. However, this right of access may be deferred if access would be harmful to the investigation or operation. This is decided on a case-by-case basis. For OLAF, the most important exemptions and restrictions that may apply in a given case are the need to safeguard 'the prevention, investigation, detection and prosecution of criminal offences' and 'an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters.'

OLAF treats the protection of personal data as an issue of particular priority. The European Data Protection Supervisor (EDPS) has acknowledged OLAF's progress in this area. OLAF has developed its data protection structures and activities and has provided training for its staff. Data processing operations presenting specific risks have been sent for prior checking to the EDPS, and the EDPS has issued opinions on all OLAF prior checking. OLAF is working to incorporate all recommendations of the EDPS into its daily procedures.

### 5.10.2 Ombudsman

In 2007, most of the new complaints sent directly by the European Ombudsman to OLAF concerned alleged failure to reply to correspondence, alleged failure to inform the complainant about action taken on his complaint, or alleged failure to grant access to documents. OLAF also replied to several letters sent by the Ombudsman, in particular to requests for further information, in relation to complaints previously introduced. In addition, two visits were organised by OLAF at the request of the Ombudsman.

### 5.10.3 Spokesman, communication and public relations

OLAF and its operational partners are convinced that information and communication must continue to be used as a means of preventing and combating fraud and corruption. Therefore OLAF supports its operational independence with its own information and communication strategy. The latter must be implemented in a manner which respects the Office's obligation to safeguard investigations and operations so as to respect the rights of the individual, in

<sup>51</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. OJ L 8, 12 January 2001

particular the presumption of innocence, within the framework prescribed by international, Community and national law. During the reporting period, the Office maintained its firm line of balancing these interests.

OLAF launched various information and communication activities to raise the profile of the Office.

In December 2007 OLAF conducted a survey amongst all European Commission staff. More than 4 200 participated, a good response rate for this kind of internal poll. A total of 79% of respondents stated that they trust OLAF, their positive view being encouraging for OLAF as the EU's anti-fraud body as well as for OLAF as the entity in charge of fighting corruption within the institutions themselves. More concretely, well over 80% of staff indicated that they would go to OLAF if they suspected irregularities, fraud or corruption. In this context, OLAF enjoys the highest level of trust of all twelve structures mentioned in the survey. The second most trusted are 'the Commission services' regular controls' and 'the courts and legal systems in the member states'. Among the organisations least trusted by the respondents are 'press and media' and 'local governments'.

OLAF also addressed itself to all Commission staff by distributing a calendar entitled 'Building Europe on Ethics and Integrity' that reminded them of their rights and obligations concerning irregularities as laid down in the Staff Regulations.

In terms of public relations, OLAF organised a seminar of the OLAF Anti-Fraud Communicators' Network (OAFCN) on the '*Fight against Fraud on Vision*' focusing on fraud prevention by means of TV fiction programmes. The seminar was co-chaired and co-hosted by the Austrian Federal Ministry of Finance (BMF) and the Government Office of the Slovak Republic (SRGO) both in Vienna and Bratislava from 23 to 26 September 2007. Other main activities undertaken together with OLAF's operational partners in the framework of the OAFCN were the first joint participation in the European institutions' Open Day in May in Brussels and two OAFCN meetings.

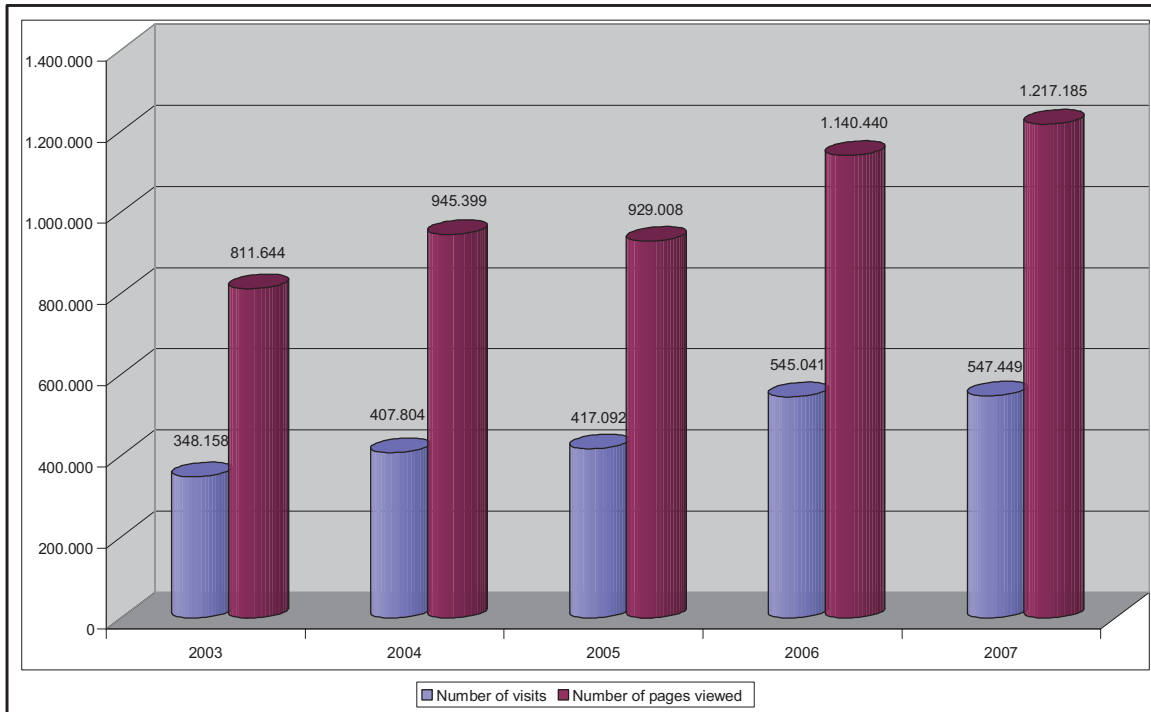
OLAF issued 50 press releases and two press briefings were held, jointly with the Commission, on the OLAF Activity Report and on the joint customs operation Diabolo. Over the year, OLAF recorded more than 500 media requests.

In 2007 a total of 67 visits to the Office were organised, involving 832 persons in total, mainly from customs, investigation services and public prosecutors offices in Member States and other countries. Additionally, delegations were welcomed to OLAF from a variety of public bodies.

The OLAF website continued to be the basic tool of the Office's communication and information policy. The number of hits has constantly risen since it was first set up. The main pages of the OLAF site are available in all official languages. On 31 December 2007, the website moved to the domain '.eu' and now includes updated contributions from OLAF's operational partner services about their cooperation with the Office.

The OLAF website recorded over 547 000 visits in 2007. At the end of the year, the OLAF website comprised 2800 pages and the OLAF Intranet 166 pages. The sections most visited are 'Press Room', 'Mission' and 'Reports'.

**Chart 44: Number of visits to the OLAF website<sup>52</sup>**



<sup>52</sup> The number of visits differs from that published in previous reports as the methodology used to calculate the figures has been revised. Visits from search engines and other 'non-significant' visitors have been removed from the statistics.

## 6 Budget

**Chart 45** outlines the areas of expenditure within this budget. OLAF's administrative budget<sup>53</sup> was over €52 million in 2007. The 'personnel' heading accounted for over 60% of total administrative expenditure.

*Chart 45: Development of the OLAF administrative budget, 2003 to 2007*

Item	Budget 2003 (€ million)	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)	Budget 2007 (€ million)
<b>Personnel</b>	23.4	26.7	25.2	32.09	<b>32.62</b>
External personnel	4.6	5	6.2	2.6	<b>2.98</b>
<b>Management Expenditure</b>			2.2	2.6	<b>2.92</b>
Furniture/infrastructure	7.7	8.6	10.5	10.9	<b>11.6</b>
Anti-fraud actions	1.9	2	1.2	1.7	<b>1.7</b>
Supervisory Committee	0.2	0.2	0.2	0.2	<b>0.2</b>
Lawyers associations	0.4	n/a	n/a	n/a	<b>n/a</b>
<b>Total</b>	<b>38.2</b>	<b>42.5</b>	<b>43.2</b>	<b>50.09</b>	<b>52.02</b>
Percentage committed	97%	93%	92%	93%	<b>94%</b>

**Chart 46** shows OLAF's operational budget for the last five calendar years.<sup>54</sup> It was over €20 million in 2007. The 50% increase over 2006 is mainly due to the entry in force of the Hercule II Programme.

*Chart 46: Development of the OLAF operational budget, 2003 to 2007*

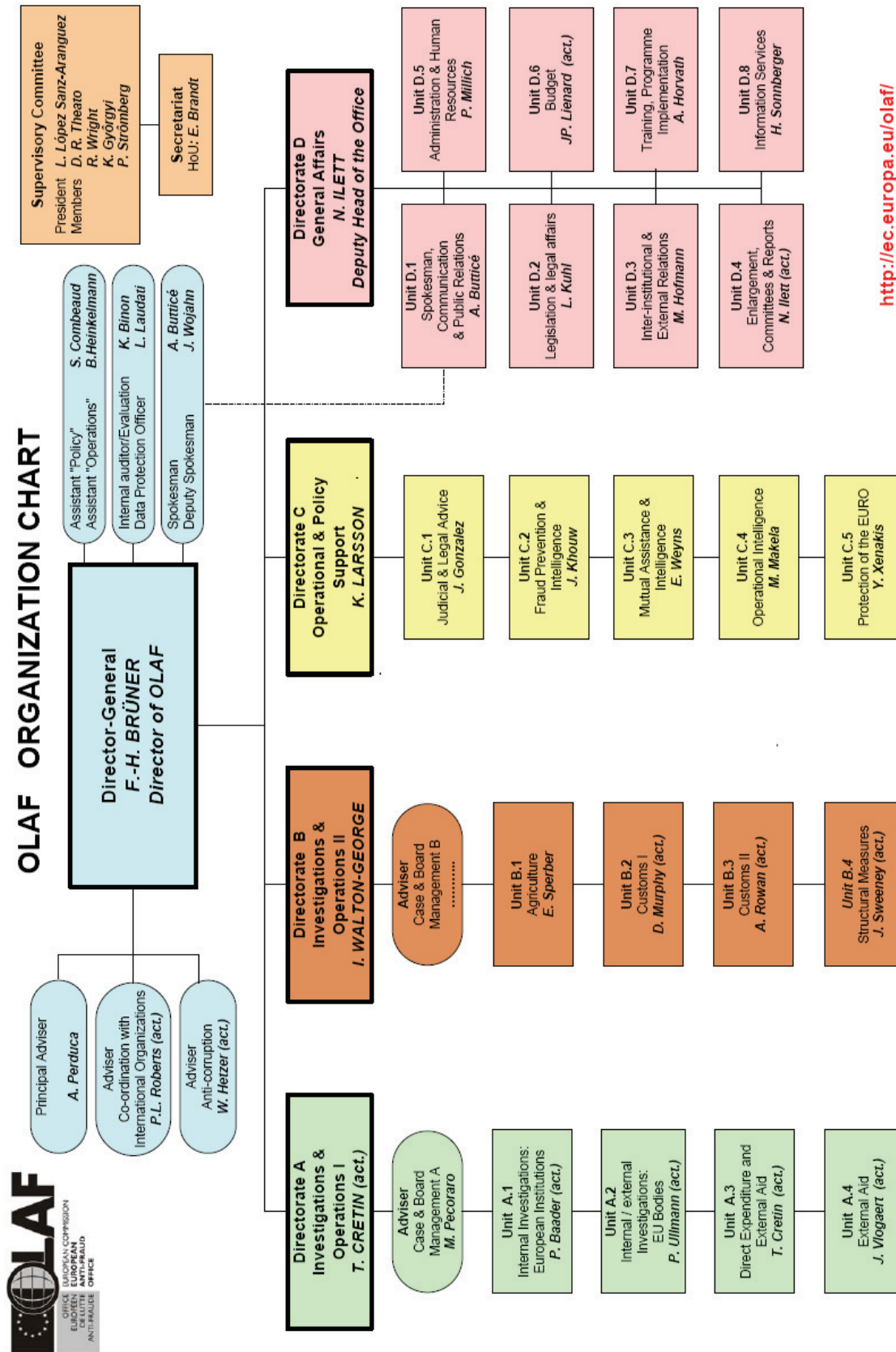
Budgetary line	Budget 2003 (€ million)	Budget 2004 (€ million)	Budget 2005 (€ million)	Budget 2006 (€ million)	Budget 2007 (€ million)
<b>24.0201 General anti-fraud measures</b>	5.1	3.3	2.4	3.8	<b>13.8</b>
24.0202 Pericles	0.9	1	1	1	<b>1</b>
<b>24.0203 Anti-fraud information system (AFIS)</b>	3.8	4.3	4.8	4.8	<b>5.8</b>
24.0204 Hercule (lawyers associations included from 2004 on)	n/a	3.9	3.9	3.9	<b>n/a</b>
<b>Total</b>	<b>9.8</b>	<b>12.5</b>	<b>12.1</b>	<b>13.5</b>	<b>20.6</b>
Percentage committed	95%	92%	94%	94%	<b>98%</b>

<sup>53</sup> While Title 24 of the European Commission's budget includes OLAF's total Budget, OLAF's administrative budget is set out in Annex COM III to the budget

<sup>54</sup> Since 2004, OLAF's operational budget has been set out in Title 24 of the European Commission's budget.



# OLAF's Organisation chart on 1 April 2008



<http://ec.europa.eu/olaf/>  
01/09/2008  
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## Glossary

<b>AFCOS</b>	Anti-Fraud Coordination Service
<b>AFIS</b>	Anti-Fraud Information System
<b>ASEM</b>	Asia-Europe Meeting
<b>CEPOL</b>	European Police College
<b>CIS</b>	Customs Information System
<b>CMS</b>	Case Management System
<b>Cocolaf</b>	Advisory Committee for the Coordination of Fraud Prevention
<b>ECA</b>	European Court of Auditors
<b>ECB</b>	European Central Bank
<b>ECEG</b>	Euro Counterfeiting Experts Group
<b>EFTA</b>	European Free Trade Association
<b>EJN</b>	European Judicial Network
<b>ERDF</b>	European Regional Development Fund
<b>ESF</b>	European Social Fund
<b>FIDE</b>	European Customs File Identification Database
<b>FIFG</b>	Financial Instrument for Fisheries Guidance
<b>FRONTEX</b>	European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU
<b>IMF</b>	International Monetary Fund
<b>ISPA</b>	Instrument for Structural Policies for pre-Accession
<b>JHA</b>	Justice and Home Affairs
<b>JTI</b>	Japan Tobacco International Agreement
<b>NCTS</b>	New Computerised Transit System
<b>OAFCN</b>	OLAF Anti-Fraud Communication Network
<b>OCU</b>	Operational Coordination Unit
<b>OLAF</b>	European Anti-Fraud Office
<b>PCTF</b>	Police Chiefs Task Force
<b>PHARE</b>	Poland and Hungary Action for Restructuring the Economy
<b>PMI</b>	Philip Morris International Agreement
<b>SAPARD</b>	Special Accession Programme for Agricultural and Rural Development
<b>SCIFA</b>	Strategic Committee on Immigration, Frontiers and Asylum
<b>UCLAF</b>	Unit for the Coordination of Fraud Prevention
<b>UNMIK</b>	United Nations Mission in Kosovo
<b>TFR</b>	Task Force on Recovery
<b>VAT</b>	Value Added Tax