

Fraud in the EC

(Updates and Replaces 94/126)

Research Paper 95/40

23 March 1995



This paper updates and replaces an earlier Research Paper (94/126) on fraud in the EC. Since publication of that paper in December 1994 there have been several developments in the fight against fraud. These developments are set out in Part III. The European Communities (Finance) Bill received its Second Reading on 28 November 1994. The Committee and remaining stages of the Bill were considered on Wednesday (7 December) and Thursday (8 December).

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Part I Fraud

A How much EC fraud is there?

Clearly by its very nature, fraud is impossible to estimate precisely. Figures may relate to estimates of the extent of fraud or levels of detected fraud. Figures may also include irregular payments - transactions that are not fully supported with proper documentation - which may not necessarily be fraudulent. An estimate of the level of fraud made by Professor Klaus Tiedemann of Germany's Freiburg University gives the loss from the EC budget through fraud as about 7-10% of the total EC budget. Given that the 1994 EC budget is equivalent to some £53 billion, the losses would amount to some ecu 5 billion to 7 billion or £3.7 billion to £5.2 billion). Apparently Professor Tiedemann bases his figures on inquiries into sectors such as agricultural goods, iron and steel, and social funds - all of which receive EU subsidies and other funding. Although Professor Tiedemann admits his overall figure is a 'guesstimate', it is rightly or wrongly quoted by the media without qualification.¹

The UK Chancellor dismisses such estimates. Recently, he said:

The ridiculous figure of £6 billion worth of fraud is bandied about the BBC and sections of the press, and by some of my hon friends. As far as I am aware, it has not the slightest factual basis. There was once a German academic who tried to produce the figure as a result of a study that he had done of the beef regime. It does not stand up to the slightest examination.

[HC Deb 28 Nov. 1994, c945].

Not surprisingly the Commission give a relatively low estimate. Mr Per Brix Knudsen, Danish director of the team of investigators and officials - Uclaf - which is based within the Commission and charged with coordinating anti-fraud activities, is reported as giving an estimate of only 2 per cent.² Mr Knudsen is adamant that estimates of 10 per cent are too high but is also reported as admitting that the actual figure of cash lost is undoubtedly more than the EU's own reported figures of detected cases - which are based almost entirely on auditing agricultural spending. The table below, taken from *Protecting the Financial Interests of the Community- the fight against fraud, 1993*, table 2, sets out figures for **detected** fraud and irregularities.

¹ Financial Times 19 May 1994 "A labyrinth of loopholes: There will be no easy victory in the EU's war against fraud in the payment of subsidies and grants"

² Financial Times, 14 Nov. 1994, "Euro-fraud squad turns on the heat".

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Member States	Own resources Art 6(3) Reg. 1552/89 (cases involving ECU 10,000 +)		EAGGF Guarantee Section Art. 3 and 5 Reg. 595/91 (cases involving ECU 4,000 +)			Structural Funds Art. 23 (1) Reg. 4253/88 (cases involving ECU 4,000 +)			Member States and Comm- ission	Mutual Assistance		
	1993 - First half		1993			1993				Art. 14/114b Reg. 1458/81		Art. 4 Reg 6.5384615
	Number of cases	ECU million	Number of cases	ECU million	ECU million recorded	Number of cases	ECU million	ECU million recorded		Number of cases	of which own resources	Number of cases
B	49	10.3	21	6.1	0.1	..	..	..	B	14	13	..
DK	..	..	75	4.2	1.0	1	0.002	0	DK	0	0	3
D	121	32.8	176	19.9	2.6	4	0.004	0.002	D	12	11	1
GR	..	..	211	24.9	1.3	0	0	0	GR	5	5	..
E	51	5.8	251	7.7	0.2	..	..	..	E	8	7	..
F	80	9.5	118	34.4	8.1	..	..	..	F	11	10	..
IRL	4	1.4	16	1.1	0.3	..	..	..	IRL	5	4	..
I	85	34.9	47	134.7	19.9	..	..	..	I	16	14	1
L	0	0	0	0.0	0.0	0	0	0	L	2	2	..
NL	2	0	61	305.0	0.6	0	0	0	NL	15	13	..
P	9	0.1	141	7.5	0.8	..	..	..	P	2	1	..
UK	137	10.5	180	4.3	1.3	0	0	0	UK	12	10	1
Total	538	105.3	1,297	248.3	36.2	5	0.006	0.002	Com Total	52 154	45 135	1 7

NB: A zero indicates that the reports recorded no cases of fraud or irregularity; a dash indicates that no reports were sent.

Evidently the largest (and incidentally the fastest growing) sector for cases is agriculture, which accounted for 1,297 cases of detected irregularities and fraud to a value of 248 million ecu (around £190 million)¹. Of this only 36 million ecu (£27 million) was recovered². The figures show a significant increase not only in the number of reports received in 1993 but also in the amounts involved. Overall the figures for fraud and irregular payments show a 50% increase over the previous year, to nearly 400 million ecu (£302 million) for cases involving own resources, EAGGF and structural funds.

These figures are obviously smaller than the more speculative ones often quoted in the press. Earlier this year *The Economist* stated:

The cost of fraud in just 30 new or recent cases, documented in a report issued on July 29th by a select committee of the British House of Lords, adds up to \$584.4m. 'That's just the tip of the iceberg,' says Lord Hunt of Tanworth, who chaired the inquiry. 'But how big is the iceberg?' fraud exists, says Lord Hunt's committee, 'on a monumental and growing scale.'

¹ Converted at £1=1.3243 ecu, as at end of December 1993.

²(Source: EC 1993 Annual Report Protecting the Financial Interests of the Community).

Klaus Tiedemann, a German criminologist who has been studying Euro-fraud for many years, estimates its total cost to the EU taxpayer at some 7-10% of the total 1993 European budget of \$79.3 billion. The fraud stems from abuse of the European Agricultural Guidance and Guarantee Fund - in plain language, handouts to farmers under the common agricultural policy. Most of it comes from fiddling the complex rules involving the EU's special export subsidies and the agriculture levies imposed on countries selling their produce to the European Union from outside its borders. Hence the weirdly circuitous routes undertaken by fraudulent traders in livestock and food. Abuse of 'structural funds', those pots of honey meant to help the EU's poorer regions, is also appalling, according to another member of the British committee⁵.

Another estimate of fraud and malpractice was recently made by Mr Francois d'Aubert, a French MP, who claims in a new book that some \$10 billion a year is lost.

All these estimates are largely based on conjecture. Contrary to popular belief, the Court of Auditors 1993 annual report does not contain a figure on the prevalence of fraud.

B Is the level of fraud getting worse?

The number of cases of detected fraud and irregularities has increased significantly in recent years. Tables on page five and six show the number of detected cases (and sums involved) of fraud and irregularities which relate to own resources and EAGGF since 1990.

Increases in the number of detected cases may to some extent reflect better anti-fraud measures. However, there are good reasons for assuming that the underlying level of fraud and malpractice is increasing. For example, this could arise simply because with a constant proportion of fraudulent transactions, the level of fraud rises in line with the growth in the Community budget. The Community budget in 1994 is ecu 70 billion (£53 billion) whereas in 1991 it was some only ecu 58 billion (£43 billion). Obviously had the proportion of fraudulent transactions remained constant, the level of fraud would increase over the years.

In addition to the probability that the level of fraud has increased in line with the rise in the EC budget, there may be reasons for suspecting that even the **proportion** of the EC budget lost in fraud may be increasing: the EC is extending its sphere of influence into untried areas which may provide proportionately more fraudulent opportunities, aid to central and eastern Europe may be one such area: rules, particularly those relating to agricultural support are becoming more complicated, which provide greater scope for abuse; and successful fraudsters may be increasingly more sophisticated. Set against this (possible) increase in the average propensity to defraud the EC, there is, as the House of Lords Report⁶ stated, "at least a tacit recognition of the failure of previous [anti-fraud] measures" and greater effort now as the Commission and Court work better together and provide more resources for anti fraud

⁵ [Source: *The Economist* 30 July 1994 "Incredible Edibles"].

⁶ HL 75, 1993-94,

activities. Identified breaches should be rectified more speedily.

The following table sets out various estimates of the cash lost to fraud using different estimates:

	<i>£ Million</i>			
Year	1991	1992	1993	1994
EC Budget*	37,662	43,005	52,050	52,869
Fraud at				
2%	753	860	1,041	1,057
- 5%	1,883	2,150	2,603	2,643
- 10%	3,766	4,301	5,205	5,287
- 15%	5,649	6,451	7,808	7,930

* Footnote⁷

A two per cent level of Euro-fraud would generate losses of some £1 billion from the Community budget in 1994. If fraud levels reached 15 per cent of the Community budget, the sums defrauded would rise to some £8 billion. Clearly no one knows what the true level of Euro-fraud really is but any plausible estimate is unlikely to be outside the range of figures suggested here: between two per cent and 15 per cent of the EC budget.

It is difficult to be optimistic about the true underlying level of fraud in the Community, especially given the comment in the Court of Auditors 1993 annual report that lessons from as far back as 1983 have not been learned.⁸

C What are the areas of fraud

In general Euro-fraud is perceived as illegal payments within the context of the Common Agricultural Policy (CAP). Although the bulk of detected fraud is clearly associated with the CAP, it is important to note that fraud can also involve other Community policies and may also arise as a result of evasion of duties or levies.

⁷ Total taken from Statement on the 1994 Community Budget, Cm 2486.

⁸ Court of Auditors 1993 Annual Report, para. 0.7).

1. Revenue fraud

Given that the House recently approved a new Own Resources Decision, it is especially relevant to consider the number of cases and sums involved which relate to own resources. These sums represent monies which would otherwise go to the Community and, to a small extent, could offset the need to increase the burden on member states. The table below shows the number and size of reported frauds involving revenue.

**Own Resources
1990-93 Reports**

Year	number of cases	sums involved (million ECU)
1990	507	57.0
1991	702	117.0
1992	1,116	95.0
1993*	538	105.3
Total	2,863	374.3

*Source: Figure 1, 1993 Annual Report , Fight against Fraud. * Figures taken from table 2).*

Between 1990 and 1993 there was some ecu 374.3 million (£280 million) involved in reported fraud involving EC revenue. A detailed breakdown of 2,777 cases, involving ecu 364 million (£273 million), is given in annex 1.

2. Farm fraud

The CAP is rightly recognised as accounting for the bulk of detected fraud and irregularities. The figures are set out in the table below:

Year	Number of cases of farm fraud and irregularities	Sums involved (Ecu m)
1990	826	125
1991	600	123
1992	1,028	114
1993	1,298	248
1994*	856	212

* First six months

Source: *Fight Against Fraud, 1993 annual report 1993, figure 1.*

EC as reported in the FT 14 Nov. 1994

Between 1990 and the end of the first half of 1994, some ecu 1,822 million (£1,375 million) has been detected in farm fraud.

One of the most useful general accounts of fraud in the European Community is a report by the House of Lords Select Committee on the European Communities⁹. This report describes the background to Euro-fraud and the Commission's strategy for dealing with it. The House of Lords report highlights some of the frauds listed by the EU Court of Auditors in its 1993 Report: more than 90 per cent of olive oil bought by the EU in Italy was substandard, costing taxpayers ecu 33.6m; in Italy, Greece and France, the EU paid ecu 91.5 million for intervention wheat that either did not exist or had deteriorated.

D What factors determine the level of fraud?

Euro-fraud seems to thrive where there are highly complicated rules governing the disbursement of financial support combined with poor or non-existent budgetary control systems. *Agra Europe*, the independent weekly reported:

The more complex the mechanisms the greater the scope for fraud and the more difficult it is to detect.

..[..].

The essence of the major - and minor - frauds which account for the bulk of Professor Tiedmann's 6bn ECU total is either claims for subsidy payment on products which do not exist, or the misrepresentation of a less valuable form of a commodity as a more valuable one. Almost all CAP frauds are variations on these essentially simple stratagems. The more it becomes necessary for the EU to support and protect every part and sector of the agricultural market, so these measures become more comprehensive and more complex.¹⁰

⁹Financial Management and Fraud in the EC, HL 75,(1993/94

¹⁰29 July 1994 P/1

Agra Europe also commented on why fraud is so closely associated with the CAP.

The reasons are obvious: the CAP still accounts for almost half of the EU's expenditure and spending within the EAGGF budget essentially involves payments to individuals and companies involved in trade in agricultural commodities. Expenditure in other sectors of the budget tends to involve payments to government and other official bodies and fraud is therefore that much more difficult to perpetrate on these types of payments.¹¹

In the debate on 28 November 1994, Mr Heathcoat-Amory (Paymaster General) said :

My final point about fraud is that we must remove the distortions which give an incentive to fraud. There is a connection in that regard with CAP reform. Many of the frauds that in Community arise because of a disparity between EC prices and world prices. That is why the Government have pressed so hard for CAP reform. The Macsharry reforms, which were agreed in 1992, are a very big step in that direction.¹²

Perhaps another reason why the EAGGF generates such a high proportion of frauds and irregularities is because it attracts most attention from anti-fraud officials. When other policies come under closer financial scrutiny, they too may generate increased examples of fraud and irregularities.

The Court of Auditors 1993 annual report stated:

0.6. Weak internal control systems together with legislation that is often complex and far too open to misinterpretation facilitate fraud, whilst permitting other irregularities to go undetected. Simplification of legislation, and better, more detailed stipulation for accounting, financial management and control are the key to considerable economies of public funds. Where systems of administration and control in Member States are found to be inadequate the flow of funds through them should be halted until remedial action has been taken.

0.7 The audit of matters which the exclusive concern of the Commission also reveals some of the same problems in 1993 as the Court has raised since 1983. Authorising officers fail to ensure that expenditure is preceded by the fixing of clear objectives and criteria. Prior appraisal is often inadequate, while monitoring and *ex post* evaluation do not provide the feedback necessary for improvements to be made. The same criticisms apply to the Structural Funds where the Community support framework agreed with the Member States generally fail to specify the clearly defined and quantified objectives required by Article 2 of the Financial Regulation against which progress could be measured.

Part II Anti-Fraud Measures

¹¹ July 29 1994

¹²[HC Deb 28 Nov. 194, c1025]

The fight against fraud to the detriment of the Community budget is primarily the responsibility of the member States; they alone have the necessary means, through their financial policing authorities, to monitor, detect, prosecute and punish fraud. Nevertheless, it is essential for the Commission to play its part in the crucially important role of coordinator, watchdog and provider of impetus, support and backup.¹³

A What is being done about Euro-fraud?

There are various ways in which Euro-Fraud is being countered.

1. Anti-Fraud Unit (SG/UCLAF)

In 1994 the Commission published its fifth annual report on the fight against fraud in line with the declaration made by the Council (economic and financial affairs) on 13 March 1989. Leading the Commission's fight against fraud is a team of anti-fraud officials and investigators: the SG/UCLAF (Directorate G "Coordination of fraud prevention", Secretariat-General of the European Commission). Following a reorganisation it now consists of four units, three of which are directly concerned with fraud enquiries (EAGGF Guarantee Section and agricultural imports, Structural Funds and other areas, and own resources), with the fourth unit (general matters, policy and coordination) providing backup. DG VI (agriculture), XIX (budgets) XX (financial control) and XXI (customs and indirect taxation) all have operational anti-fraud units. Other Directorates (DGs V XIV and XVI) have specialist staff covering the area¹⁴. An organisational chart of the anti-fraud operations in the Commission is set out in annex 2.

According to the Financial Times (19 May 1994):

Mr Knudsen [the Danish head of the anti-fraud unit] is spearheading efforts to reduce the losses, including a doubling in the staff of Uclaf (the word is a French acronym) from 50 to 100 by the end of the year. He is setting up a telephone hotline on which members of the public across Europe can report instances of fraud in confidence. The Commission is also on course to finalise by June 1 a package of 'administrative sanctions' which would empower member states to impose fines on companies and individuals suspected of misappropriating EU cash before there has been any resort to Court proceedings.

....

Mr Knudsen is not alone in his efforts. The Luxembourg-based Court of auditors, the EU's main financial watchdog, has acquired new powers to take legal action against the Commission and member states if it thinks they are failing to act against fraud.

¹³ [Source: *The Fight Against Fraud, 1993 Annual report, European Commission*].

¹⁴ [Source: *1993 Annual Report, p17*].

As part of the 1995 budget, the Commission received appropriations for an extra 50 new staff, targeted at anti-fraud. The newcomers to UCLAF will be former police or customs officers skilled in tracking international criminals. The unit is currently co-ordinating investigations into between 30 and 70 large-scale European frauds. Reports of cuts in the 1995 Budget allocation are noted on page 17.

There may be suspicions that, as one sceptical member of the EC budgetary control committee is reported as saying, Brussels is putting on a 'big show' of talking tough about fraud without being sufficiently resolute in tackling it.

The fight against fraud and sound financial management also includes the European Parliament (Committee on Budgetary Control) and the Council and the Court of Auditors.

2. The Court of Auditors

As from 1977 the external audit of the general budget has been carried out by the Court of Auditors. The Court of Auditors examines the accounts of all revenue and expenditure of the general budget. It also considers whether revenue has been received and expenditure incurred in a lawful and regular manner and whether the financial management has been sound. The audits may be carried out before the closure of the financial year in question and are performed on the basis of records and, where necessary, on the spot in the institutions of the Communities and in the member States. The Court of Auditors draws up an annual report for each financial year and may also, at any time, submit its observations on specific questions and deliver opinions at the request of one of the institutions of the Communities.¹⁵ The Court of Auditors called in its 1993 Report for the Commission to devote a significantly larger proportion of its staff to securing the necessary improvement in the performance of its own services and of those Member States which handle Community funds. Community and national civil servants must be made accountable for the way in which funds are spent.

The Court of Auditors report is in three sections: Introduction, in which the Court highlight the main concerns; Part I, in which the Court sets out its observations on the Community's main policies within the operational budget; Part II, in which the Court sets out its observations on each of the administration budgets. Parts I and II also contain the Commission's replies to the Courts observations.

The main concerns of the Court of Auditors 1993 Annual Report (published in November 1994) are summarised below:

¹⁵Source; Court of Auditors Report 1993.

In its report the Court highlights its concerns about the financial management and control of Community finances during 1993.

The Court notes that a number of the problems identified by its report are similar in nature to those identified in its report for 1983. The report draws attention to problems of Commission and Member State administration and control which remain to be overcome. The Court considers that the Commission has not managed to achieve the financial control required by the budgetary authority.

The Court goes on to outline a number of its particular concerns, concluding that:

- agricultural management measures are still failing to achieve balanced markets;
- Member States still issue incorrect certificates for Structural Funds expenditure and fail to monitor payments or ensure that it is properly accounted for;
- the Commission and Member States have not generally succeeded in establishing coherent and effective administrative and control systems for the EAGGF-Guarantee fund;
- weak internal control systems together with complex legislation encourage fraud and allow irregularities to go undetected;
- Commission staff fail to ensure that expenditure is preceded by the fixing of clear objectives and criteria, prior appraisal is inadequate and ex-post evaluation does not provide the feedback necessary to allow improvements to be made;
- there are continuing breaches of rules governing placing of contracts with third parties and there is a risk of confusion in accounting between administrative and operational expenditure, particularly with regard to aid to Eastern Europe and the former Soviet Union;
- Commission delegation of financial management responsibilities to national administrations and third parties has led to a loss of control over the proper use of Community funds.

The Court concludes that the Commission still has to do more to improve its supervision, accounting and control of Community finances. The Court also considers that there is room for improvement in the Member States' own accounting, internal control and auditing of those EC operations managed by national agencies. The Court considers that where Member States' systems of administration and control are found to be inadequate, funds should be withheld

until remedial action is taken.¹⁶

The Court of Auditors 1993 annual report outlines areas where breaches of rules had occurred and concluded:

0.11 In view of the situation described above and the numerous weaknesses in accounting and financial management mentioned throughout the report the Commission needs to devote a significantly larger proportion of its staff to securing the necessary improvement in the performance of its own services and of those Member States which handle Community funds, Community and national civil servants must be made accountable for the way in which funds are spent.

The Court of Auditors Report provides evidence of weaknesses in sound financial management. Community expenditure is likely to provide poor value for money as long as these weaknesses persist. As noted above, the Court of Auditors Report does not contain a figure for the prevalence of fraud.

3. The Maastricht Treaty

The Treaty on European Union signed at Maastricht, made various changes to help the fight against fraud. First, the Court of Auditors has been established as a full Community institution, thereby gaining increased powers within the Community's legal structure, including the power to bring other Community institutions before the Court of Justice. As the Chancellor pointed out in the debate on the 28 November 1994, the irony is that:

the new, stronger Court of Auditors, which produced last week's report on the 1993 budget, gave the opportunity to every enemy of the European Union suddenly to claim that it is corrupt to the core because at last they had the material, which they then grossly exaggerated. That gave rise to allegations.

Second, the European Parliament has been given the power to set up a temporary Committee of Inquiry into fraud. Third, The Commission is now required, in implementing the budget on its own authority, to have regard to the principles of sound financial management. Fourth, the European Parliament's powers in the budget discharge procedure have been strengthened. Fifth, Member States are required to take the same measures to counter fraud affecting the financial interests of the Community as they do to counter fraud affecting their own financial interests. A Treasury explanatory Memorandum on the 1993 Annual Report set out the position as follows:

The Commission considers that tackling fraud is primarily the responsibility of Member

¹⁶[Source: HMT Explanatory Memorandum on EC COM (94) 92 Final, 23 Nov. 1994].

States but that there is also a coordination and support role to be undertaken by the Commission.

The Commission considers that Member States, the Council and the Commission must work together to ensure that full use is made of the financial management framework established by the Maastricht Treaty and also contained in secondary legislation. The Commission also considers that the size of the Community budget and the complexity of multinational fraud means that the fight against fraud should include not only action under the Community pillar but also the possibility of cooperation under Title VI of the Treaty (third pillar).

4. Anti-fraud Strategy

Essentially, the Commission's anti-fraud strategy contains four elements. First, taking steps to prevent fraud at source, concentrating on the high risk sectors and improving recovery of misappropriated funds. Second, strengthening the Commission-Member States partnership, improving links between anti-fraud agencies, extending information networks and using intelligence better. Third, simplifying legislation so that it is less easy to exploit fraudulently, and imposing more severe penalties. Fourth improving the compatibility of national legislation, by using Title VI of the Union Treaty to promote convergence of Member States' legal systems in appropriate areas. The Commission presented a work programme for 1994.

During the Second Reading of the European Communities (Finance) Bill the Chancellor set out the position, including the role played by the UK government.

The Court of Auditors now has the power to take the Commission or other institutions of the Union to the European Court of Justice if it needs to do so to get action taken on its reports. The Council of Ministers and the European Parliament have also been given extra powers to hold the Commission to account for the defects disclosed by the Court of Auditors reports. The Council of Ministers and the European Parliament are now doing that for the 1992 budget.

The British took the lead at a Council of Finance Ministers, which demanded that, in the light of the 1992 report, in future we should have prior approval of projects, target setting for results in terms of value for money, monitoring and evaluation of spending. That put in place the type of procedures that accompany good government in this country. The European Parliament is demanding action on milk quotas, tobacco and the use of anti-fraud staff. It is also getting a response.

Since 1992 there has been a Commissioner personally responsible for action against fraud. It is at present a German Commissioner and is soon to be a Swedish Commissioner. Both come from countries as keen to cut fraud in parts of the Union as we are in the British Parliament. There is now a unit that deals with fraud - the so-called flying squad - currently headed by a Dane. That so far is good enough, but the British Government wish and intend to go further.

Both the British Government and the Commission have made further proposals for Community-wide action and stronger criminal penalties for those who are guilty of fraud involving Community funds. My right hon. and learned Friend the Home Secretary has put forward the British proposal that member states should tighten penalties for Community fraud and that it should be a criminal, imprisonable and extraditable offence¹⁷. The Commission has responded with, if anything, even stronger suggestions of its own. I know that my right hon. and learned Friend or another Home Office Minister will discuss the matter at the Council of Interior Ministers later this week and that proposals will soon be put in place.

Fraud is a serious matter. That is not anything that divides any Members in the House one from another. At last - especially since 1992, Maastricht and Edinburgh - we have in place the necessary structures to tackle fraud. The British Government will remain among the most determined to ensure that the structures are acted on and produce results.

More proposals will be put forward at the next European summit in Essen. For example, we might propose independent inspection of the vetting of claims by some national agencies because some member states are not good at vetting the claims that they put forward.

I hope that when we make those proposals and when we strengthen what we have done in the past two years, no Members of the House will say that we are allowing European interference in this country, appointing Euro-snoopers and making Euro-laws. We are strengthening the action that can be taken against fraud because it is absolutely essential that we get value for money out of the budget.¹⁸

In the view of the House of Lords Select Committee¹⁹, the Commission's "new strategy" to combat fraud is totally inadequate. It does not match the scale and urgency of the problem. The Committee calls for: i) more emphasis on fraud prevention as distinct from detection, ii) a stronger EU Court of Auditors and iii) appointment of a task force of experts to make a fundamental review of where the EU's financial controls are failing.

¹⁷ According to the Guardian (2 Dec. 1994), "Yesterday EU justice ministers accepted British demands for a common system of community law to make serious fraud against the EU budget a criminal, extraditable and imprisonable offence. The French government promised to use its six months in the EU presidency to push through a binding measure. The proposal was initially put in March by Michael Howard, the Home Secretary"

¹⁸ [Chancellor HC Deb 28 November 1994 c 946-7]

¹⁹ op cit.

B The UK' Government's view on combatting fraud

Any fraud is unacceptable when public or any other money is involved. The present level of fraud is excessive but I say again to the House that it does not improve public debate or the appreciation of what can be done to whip up the debate on the subject by way of the grotesque exaggeration that we have heard in the past week.²⁰

The UK government is committed to ensuring that the best value for money is obtained from the Community budget and that measures continue to be put in place to combat fraud and irregularities. The UK government welcomed the Commission's anti-fraud strategy and work programme for 1994. However, the UK government expressed concern that the work programme did not include clear references to target dates and measurable objectives and will press for their inclusion.²¹ The UK Government endorses the Court's views that financial management needs improving and that the Commission must ensure that accounting and control arrangements in Member States are adequate.

The Court does not highlight any significant concerns about the UK's control procedures. The UK Government, which supports budget discipline, is keen to ensure that financial regulation is followed, especially under the agricultural guarantee and guidance funds. The wine regime and its possible reform is one particular area in which the UK government has played an active role. The UK agrees with the Commission on the need to simplify Community legislation, especially that relating to agriculture.

The UK government is also keen to press for improvements in project appraisal and control in developing countries. The UK government also agrees with the Court that Community payments should be halted to those Members who are found to have inadequate administration and financial controls.²²

Mr Heathcoat-Amory (the Paymaster General) reinforced the point in the debate on 28 November 1994:

"Fraud, like sin, can never be totally eliminated but I can give the House the absolute assurance that we will pursue this issue with renewed vigour. That includes ..[..]. the wider use of administrative penalties. So where serious shortcomings are identified, we recommend the cutting off of further funds to the areas or projects identified.

Combatting fraud is not simply a question of spending more money. It is typically Labour thinking to suppose that the quality of any organisation or initiative is judged simply by

²⁰[The Chancellor, HC Deb 28 November 1994 c945.]

²¹ Source: HMT Explanatory Memorandum on EC COM(94) 92 Final.

²²HM Treasury 23 November 1994.

the amount of public money spent on it. Yes, we need greater policing of EC expenditure. We also want to see more preventive measures to take away the opportunities for fraud at source.²³

The Government's six-monthly White Paper on Developments in the European Union (Cm 2675 Jan-June 1994), noted recent moves by the UK to counter fraud in the Community:

On 3 March the Home Secretary launched a proposal for a legally-binding joint action under Title VI of the Maastricht Treaty designed to achieve concerted action by member states to protect the financial interest of the Community and in particular to tackle through member states' criminal laws, deliberate criminal fraud against the Community budget. At the Justice and Home Affairs Council on 20 June, the Commission introduced two proposals for the protection of the financial interests of the Community. The first is a draft Council regulation (see para. 6.17). The second, a draft Convention under Title VI of the Maastricht Treaty, seeks to define member states' obligations under the criminal law for protecting the Community's financial interests. The United Kingdom's and the Commission's proposals are under discussion.

As noted above, the Guardian reported (2 December 1994) that EU justice ministers accepted British demands for a common system of community law to make serious fraud against the EU budget a criminal, extraditable and imprisonable offence. The French government promised to use its six months in the EU presidency to push through a binding measure. The proposal was initially put in March by Michael Howard, the Home Secretary.

C The costs of the anti-fraud programme

The direct costs of the anti-fraud programme in successive EC budgets are as follows:

1992	1993	1994
76.5 mecu (£ m) ²¹	133.2 mecu (£ m)	139.1 mecu (£105m) ²²

Source: HM Treasury Explanatory Memorandum on EC COM(94) 92 Final.

²³ [HC deb 28 Nov. 1994, c1025]

²¹ Converted at the rate of £1=1.3243 ecu, which is the rate set for UK VAT and Fourth Resource contributions to the 1994 Community budget.

²² Including control arrangements for the reformed CAP

According to an article²³ in the Guardian, 2 December 1994 the anti fraud budget for 1995 was recently reduced. The article stated:

Britain agreed to a big cut in the European Union's anti-fraud budget just as the Government was attempting to persuade suspicious Tory MPs that it was heading the drive to eliminate waste and fraud in Brussels it emerged last night.

Last month's agreement which lopped almost £4 million off the anti-fraud campaign was carried out behind closed doors and never communicated to the House.

The Chancellor Kenneth Clarke, and his Euro-finance minister, David Heathcoat-Amory, both spoke during Monday's European funding debate on the controversial measure to increase the EU's resources base up to 1999, and hammered home their anti-fraud credentials in the face of Tory Euro-sceptic attacks.

What they did not admit was that, in budget trade-offs at the monthly meeting of budget ministers on November 16, Mr Heathcoat-Amory agreed to a £3.9 million cut in the anti-fraud budget for 1995, currently set at £100 million and far less than demanded by the European Parliament.

....

The issue is certain to be raised on Wednesday when ministers seek to push the European Communities (Finance) Bill through all remaining Commons stages in just two days. The move announced yesterday, confirms the Government's hard-line approach compared with the protracted campaign waged over the Maastricht Treaty Bill.²⁴

In response to the article, the UK Government is reported²⁵ as insisting "that the cut backs would not affect the fight against fraud."

Table 4 of the Commission's Annual report on the fight against fraud (given below) includes some details for which appropriations are used only by the Commission (eg lines A-2554 (meetings and conferences of European lawyers for the protection of the Community's financial interests) and A-3530 (UCLAF). It also covers a number of lines where the UK would not expect to receive financing, eg A-355 (measures to control cross-border crime) involves five specific countries, not including the UK. .

²³ "Britain agrees to cut in anti-fraud budget before EC funds debate"

²⁴ [Source Guardian, "Britain agreed cut in anti-fraud budget before EU funds debate", 2 December 1994].

²⁵ CEEFAX, 2 December 1994

TABLE 4
Utilization of appropriations - 1993

Budget article item	Heading	Measures Financed	Appropriations available	Appropriations committed	Utilization (%)	Carryovers from 1992	Payments against carryovers from 1992
A-2554	Conferences, congresses and meetings in connection with the activities of the associations of European lawyers for the protection of the financial interests of the Community.	Seminars, meetings and training courses in the Member States	200,000	199,155	99.6		
A-3530	Unit to coordinate action against fraud	- Meetings, seminars, investigations - Cocolaf	99,000	90,491 50,491 40,000	91.4	324,924	268,573 82.6%
A-3531	Controls, studies and analyses in connection with the fight against fraud	- Reg. (EEC) No 4045/89 - Meetings, investigations, seminars missions - Studies on customs and indirect taxation - Other studies and reports on the fight against fraud - Computer systems (IRENE) - RTC	4,341,000	3,799,028 1,706,000 1,422,048 365,080 113,000 103,400 89,500	87.5	3,375,585	1,260,104 32.5%
A-3532	Fraud suppression in the textiles sector (TAFI)	- Seminars, investigations - Study - Co-financing a research unit	500,000	494,315 161,000 180,315 153,000	98.9	Token entry in earlier years	
A-355	European documentation, coordination and study network to control cross-border crime and fraud	Establishment of a foundation under Dutch law (legal structure of the network) involving five countries: D, I, GR, L, NL	375,000	375,155	100	245,000	240,500 98.2%

Budget article item	Heading	Measures Financed	Appropriations available	Appropriations committed	Utilization (%)	Carryovers from 1992	Payments against carryovers from 1992
B1-360	Measures to combat fraud affecting the European Agricultural Guidance and Guarantee Fund - Guarantee Section	- Reg. (EEC) No 307/91 - Remote sensing - Integrated administration and control system	82,000,000	80,120,800 20,000,000 10,000,000 50,120,800	97.7	15,718,320	4,877,509 31%
B2-5110	Measures to control and combat fraud (inspection in agriculture)	- Vineyard register - Studies - Missions - Controls on fruit and vegetables in Portugal - Remote sensing (software) - Olive oil agencies - Miscellaneous	18,110,000	17,979,427 389,052 555,815 103,251 4,400,000 467,423 12,000,000 63,886	99.3	23,069,727	13,491,392 58.5%
B5-3051	Community action programme concerning vocational training for customs officials (Matthaeus programme) and tax officials (Matthaeus Tax)	- Matthaeus - Matthaeus Tax	2,427,000	2,426,953 1,900,707 526,246	99.9		
B5.3052	Indirect taxation and customs networks	Feasibility studies, pilot projects	9,800,000	9,800,000	100		
Total			117,852,000	115,285,169	97*		

* The percentage of utilization of appropriations voted (excluding transfers) reaches 88.4%.

C Use of fraud prevention appropriations

It is useful to consider Member States' utilisation of fraud prevention appropriation in the EC budget. The following tables show the Member States take-up of appropriations for financing available under the regulations which cover the three main budget headings involving co-financing.²⁶

A-3531
(measures to combat fraud affecting the
EAGGF, Guarantee Section)
REGULATION 404S/89*

	Funds Available	Taken up	%
BELGIUM	76,000	71,669	94.3
DENMARK	131,000	123,677	94.4
GERMANY	278,000	263,625	94.8
GREEE	136,000	129,079	94.9
SPAIN	286,000	270,154	94.5
FRANCE	289,000	273,705	94.7
IRELAND	31,000	29,094	93.9
ITALY	189,000	150,000	79.4
LUXEMBOURG	..	..	..
NETHERLANDS	106,000	100,112	94.4
PORTUGAL	130,000	120,928	93.0
UK	54,000	51,100	94.6
TOTAL	1,706,000	1,583,143	92.8

Source: European Commllsion

Regulation 4045/89 concerns the scrutiny of commercial documents of businesses receiving or making payment under the Guarantee Section of the EAGGF.

²⁶Source: HM Treasury Evidence to Select Committee, June 1994, unpublished.

Regulations 3508/92 and 3887/92 establish the Integrated Administration and Control System

BI-360

1993 (ecu)

(Measure to combat fraud affecting
the AGGF, Guarantee Section)

	REGULATIONS 3508/92 AN 3887/92			REGULATION 307/91		
	Funds	Taken up	%	Fund Available	Taken up	%
BELGIUM	1,150,000	1,150,000	100.0	1,137,400	38,811	3.4
DENMARK	1,003,667	1,003,667	100.0	877,600	666,984	74.9
GERMANY	2,401,149	2,401,149	100.0	2,526,300	1,344,288	
GREECE	4,350,000	4,350,000	100.0	1,523,900	72,150	
SPAIN	9,050,000	9,050,000	100.0	1,605,400	1,202,151	74.9
FRANCE	6,222,557	6,222,557	100.0	4,126,500	2,415,089	58.5
IRELAND	2,250,000	2,250,000	100.0	541,700	89,900	16.6
ITALY	10,050,000	10,050,000	100.0	3,360,000	472,822	
LUXEMBOURG	300,000	65,947	22.0	..	..	0.0
NETHERLANDS	..	..	..	1,749,100	1,301,687	8.0
PORTUGAL	2,850,000	1,241,076	43.5	1,015,900	81,276	8.0
UK	4,620,019	4,620,019	100.0	1,536,200	139,965	9.1
TOTAL	45,747,392	42,403,966	92.7	20,000,000	7,815,123	41.5

Source: European Commission

(IACS) covering certain EAGGF aid scheme. These include the Arable Area Payments Scheme, beef, veal and sheep premium schemes and measures supporting farming in hill and less favoured areas. In addition to an integrated control system, the Regulation requires alphanumeric identification systems for agricultural holdings and animals and the establishment of a computerised data base. Regulation 307/91 provide for co-financing of the cost of certain measures to reinforce monitoring and detection of fraud and irregularities under the EAGGF. Costs incurred for training, provision of equipment and monitoring by independent firms and laboratories are eligible for co-financing.

[Source EC 1993 Annual Report Protecting the Financial Interests of the Community].

	B2-511		1993 (ecu)
	(Inspection in Agriculture)		
	Funds Available	Taken up	%
BELGIUM	8,000	8,000	100.0
DENMARK	2,000	2,000	100.0
GERMANY	62,000	60,000	96.8
GREECE	500,000	474,000	94.8
SPAIN	871,000	833,000	95.6
FRANCE	400,000	302,000	75.8
IRELAND	..	..	..
ITALY	1,807,000	178,000	96.7
LUXEMBOURG	..	..	..
NETHERLANDS	..	..	..
PORTUGAL	1,112,000	70,000	66.5
UK	53,000	53,000	100.0
TOTAL	4,830,000	4,221,000	87.4

Source:European Commission

Part III Update on fraud in the EC**March 1995**

Misuse, mismanagement, waste or downright fraud are simply not acceptable to the European taxpayer. I am convinced that to ensure the support of public opinion for future phases of European integration, the European Union and the Member States must show tangible results in the fight against fraud, particularly in anticipation of the 1996 Intergovernmental Conference. [Commissioner Mrs Anita Gradin, Sweden²⁷].

There have been several developments since this Library Paper was first published. Below is a summary of the main items.

A. 1995 Work Programme

This Library Paper noted the Commission's 1994 work programme which is part of the anti-fraud strategy. The 1995 programme was published on 8 February 1995. This programme was the Santer Commission's first substantial decision in the area of combatting fraud. The 1995 programme is a follow-up to last year's anti-fraud strategy, with a proposal to the Council for a new regulatory framework for anti-fraud measures. The timetable agreed at Essen was for the Council to adopt the proposal before the end of the French Presidency in June 1995. The 1995 work programme includes the following measures:

I Reinforcement on the ground and support for operations, concentrating on high risk sectors.

Although Mrs Gradin says the Commission has no intention of taking the place of Member States in combatting EC fraud, it wishes to ensure that Member States fulfil their obligations. To this effect the Commission will create task forces in sensitive areas where the complicated nature of fraud, or its transnational and international aspect, requires specific Community support.²⁸

The task forces will investigate cigarettes, milk products, textiles, olive oil and the beef and veal sectors in 1995. There will be an increase in the number of UCLAF staff so that more on-site investigations are made and improvements made to the performance of national offices responsible for product transit procedures.²⁹ The new

²⁷ Agence Europe, 18 March 1995

²⁸ Agence Europe, 18 March 1995

²⁹ The European Commission has decided to re-allocate around 40 people from the Directorate General for Agriculture (DG VI) and the Directorate General for Customs and Indirect taxation (DG XXI) to UCLAF (unite de Coordination pour la lutte Antifraude) service responsible to the General Secretariat. Around 130 people will be dealing exclusively with detecting fraud and recuperating EU funds. According to Anita Gradin who is the Commissioner responsible for combatting fraud, this redeployment "will allow us to effectively carry out new

penalty clause system will be introduced in the system of preferences granted to developing countries if the beneficiary country does not respect anti-fraud principles (such as declaration of origin); and tighten up the follow-up using the IRENE database.³⁰

Reports will be produced by Member States based on cases of fraud and irregularities in the structural funds and the cohesion fund, own resources, expenditure under the Guarantee Section of the EAGGF. There will be improved monitoring of findings and clarification of Member States' responsibility for the recovery of traditional own resources.

II Strengthening the partnership between the Commission and competent authorities.

There will be greater sharing of intelligence, training of national officials and more technical and financial help available for anti-fraud departments in member states. The effectiveness of the freephone will be evaluated³¹; a system of payment for informants ("whistle-blowers") will be introduced for an initial period of one year and a "black list" of operators guilty of fraud will be compiled.

III Improving the Community legislative framework in every sector of activity.

Commissioner Mrs Gradin considers that administrative penalties, such as blocked funds, as well as civil penalties are necessary deterrents. The Council will adopt as soon as possible the proposal for a regulation on the protection of the Community's financial interest. This instrument, which contains general provisions on control and penalties will, amongst other things, examine the possibility of extending the system of penalties to all budget sectors (and not just agriculture, as is the case at present), particularly the structural funds and will strengthen control mechanisms in various sectors of the Community budget. The Council's proposal is described in more detail later. There will be legislation on transit arrangements and tougher rules on export refunds for agricultural products.

IV Securing greater compatibility between national legislation

The legal framework aimed at protecting the EU's interests must be uniform and effective to meet the challenge posed by international financial crime networks. The Commission will make its contributions during the current negotiations to approximate the criminal law of the Members States. This reflects the Resolution of December 1994 by the Council (justice and home affairs) and the conclusions of the Essen

activities described in the 1995 anti-fraud work programme, presented last week". [Agence Europe 16 February 1995, p9]

³⁰ Agence Europe 9 Feb 1995 p9

³¹ Mrs Gradin is reported as saying that the "hot line" set up by the Commission in November 1994 produces on average one useful call per day, which "proves that the existence of this special line is justified." [Agence Europe 9 Feb. 1995].

European Council calling for a legal instrument on the protection of financial interests in criminal law before the end of the French presidency. The Home Office press notice is reproduced on page 28.

The Commission will draw up a report on how Member States apply Articles 209a of the Treaty on European Union on the basis of the national reports requested by Essen European Council in accordance with the conclusion of the Council (economic and financial affairs) of 16 January 1995³².

B. Regulation on the Protection of the Community's Financial Interests.³³

The (French) Presidency of the Council is apparently keen to have a resolution passed which will add impetus to the fight against fraud. It has prepared a draft compromise to deal with the problem of overlapping of Community administrative sanctions and national sanctions. The legal basis for the Regulation is Article 235 of the Treaty of Rome. The Presidency's proposal is based on the Commission proposal, with two additional recitals. The first makes clear that the Regulation concerns all irregular conduct, including fraud as defined in the legal instrument drawn up under Title VI of the Treaty. The second provides that administrative penalties are to be imposed on the basis of sectoral Regulations. Further recitals are expected to be added. Another key problem is the choice between an illustrative or all-inclusive list of sanctions. The Presidency proposal is described below:

General Principles (Title I)

Article 1

This makes clear that the Regulation contains general rules relating to compulsory harmonised control procedures, and administrative measures and penalties concerning irregularities.

Article 2

The proposal provides for administrative controls, measures or penalties to be introduced in so far as they are necessary to ensure the application of Community law. Penalties are to ensure effective, proportionate and dissuasive protection of the Communities financial interests. Administrative penalties are to be imposed only when expressly provided for in a prior Community act.

Article 3.

Community administrative penalties are to be applied with the same rigour as those that apply to infringements of national law. This article also provides for a limitation period of 3-5 years. The limitation period may be interrupted by any act of a Community or national

³² COM(95) 23 final, Combatting fraud, Work Programme for 1995, 8 Feb. 1995.

³³ This section draws on HMT's Explanatory Note on the Presidency working document relating to the proposal for a Council Regulation, March 1995

authority relating to investigations or legal proceedings. This concept of "interruption of prescription" is unfamiliar to UK law.

Administrative measures and penalties (Title II)

Article 4

As a general rule, an irregularity shall involve withdrawal of a wrongly obtained advantage through the repayment of amounts wrongly received (with appropriate interest) and the total or partial loss of a security lodged.

Article 5

Intentional acts or act of serious negligence may lead to administrative penalties being imposed. Such penalties are:

- payment of an amount greater than that wrongfully obtained;
- total or partial removal of an advantage granted by Community rules;
- total or partial exclusion for a period from a Community scheme;
- temporary or indefinite exclusion from participation in a Community scheme.

Article 6

This defines "abuse of Community law" as an act done for the purpose of obtaining an unwarranted advantage by the creation of a situation which is in accordance with the law but devoid of any real economic purpose, and is contrary to the purpose sought by the relevant Community legislation.

Article 7.

Community measures may apply to:

- natural persons which have committed an irregularity;
- natural persons which through their employment are under a duty to avoid irregularities; and
- legal persons where the irregularity is committed by a natural person acting on their behalf.

In-situ Checks and Inspection (Title III)

Article 8

Members States shall take the necessary measures to satisfy themselves about regularity and existence of operations involving the Communities' financial interests. It also provides for relevant control measures to be adapted to sectoral characteristics and proportionate, and also to take into account Member States' administrative practices and structures. Control measures are to be designed to avoid excessive economic constraints or administrative expenditure.

Article 9

Provides for Commission checks:

- that administrative practice complies with Community rules;
- the availability and regularity of necessary documentation;
- the conditions under which the financial operations are carried out and audited.

Authorised Commission officials are to have access to (and right to copy) Member States' documents and accounts. Adequate notice will be given prior to inspection. Member States' own staff shall participate in the inspections and the results of the inspections shall be forwarded to the Member States concerned.

Article 10

Community officials may participate in checks carried out by members states but they may not exercise the investigative powers of national staff. Commission officials shall not participate in checks relating to criminal proceedings which are carried out by national staff appointed by national laws.

Article 11

Commission officials shall produce written authorisation when carrying out checks in member states. All information obtained through Commission checks shall be covered by professional secrecy.

C. UK government's view on combatting EC fraud

The UK government says that it welcomes contributions to the debate on the fight against fraud and will always consider how progress can best be made.³⁴ However, the UK Government will examine whether the Presidency proposal respects the proper competences of the Community and the Member States.

In his statement³⁵ to the House on the European Summit at Essen, the prime minister said :

I raised the subject of fraud, waste and mismanagement of the budget following the Court of Auditors report. I said that the European Union would not enjoy popular support unless it took vigorous action against these abuses. I made a number of proposals which were agreed by the Council. These were: the Council must ensure that reports from the Court of Auditors are rigorously scrutinised and followed up, each member state must report to ECOFIN, the Economic and Finance Council, on what it is doing to combat fraud in its own country; and agreement should be reached rapidly in Brussels on measures now under discussion - these include a British proposal put forward by my right hon. and learned Friend the Home Secretary which would oblige Member States to co-operate and act effectively to fight criminal fraud against the Community budget - and the new powers given in the Maastricht treaty, as a result of British initiatives, to the Court of Auditors, the European Council, the European Parliament and the Commission should be used to the full.

I made it clear that taxpayers' money must not be misused. The fight against fraud, waste and mismanagement will remain high on our agenda. That view was strongly endorsed by the Commission and a number of member states, and it echoes points that we have been making for some time in the European Council.

³⁴ Explanatory Note, HMT March 1995

³⁵ HC Deb 12 December 1994, c613.

In response to a written question on the objectives of the French Presidency of the EU Mr John Major MP said:

At the Essen European Council I made a number of proposals on the subject of fraud, waste and mismanagement which were agreed by the Council. .[.].

The French presidency has made clear that it intends to pursue these measures vigorously. This was endorsed by the Council of Economic and Finance Ministers at their meeting on 16 January when the presidency work programme was discussed.

The reports from Member states, commissioned at Essen, on the measures Member States are implementing domestically to combat waste and the misuse of Community resources will be examined under the French presidency.

The French presidency fully shares our views on fraud, as the French Prime Minister made clear to me at our Chartres meeting last December.

Sir Teddy Taylor asked in a written question what arguments were advanced at the Council of Finance Ministers in favour of reducing the anti-fraud budget at its meeting in November 1994 and if the Chancellor would make a statement. The reply was as follows:³⁶

Mr. Heathcoat-Amory: The Commission's preliminary bid for anti-fraud lines in the 1995 budget was for 133.1 mecu, or £103.8 million which was a reduction of 6.1 mecu, or £4.8 million, over the budget for 1994. This is due to a reduction in one-off studies and start-up costs and capital expenditure in agriculture. But the Commission's bid ensured that the amounts for staff and running costs were maintained at their 1994 levels.

The European Parliament sought an increase of 7 mecu, or £5.5 million, over the Commission's bid, made up of: 3 mecu, or £2.3 million, for measures for inspection of animals in the agricultural section; and 3.95 mecu, or £3.1 million, transferred from various programmes to a number of small amounts in administrative expenditure in the operational section of the budget. The latter is contrary to Council policy.

The United Kingdom supported the European Parliament's proposals in this area, although it had considerable sympathy with the Council's view on not creating administrative expenditure lines within the operational expenditure section of the budget because this makes control of the Commission's administration budget more difficult. In the event, the majority's view prevailed and the European Parliament's bid was cut back at the 16 November Budget Council to the Commission's original bid, which both the Commission and the Council considered appropriate for what is required for the fight against fraud. But the majority of the European Parliament's proposals are for non-compulsory expenditure on which final decisions are taken by the European Parliament, and it is still able to reinstate part of this increase in the Budget if it so wishes.

³⁶ HC Deb 7 December 1994 c263-264W

HOME OFFICE

291/94

1 December 1994

UK PRESSES FOR ACTION AGAINST EU FRAUD

United Kingdom proposals are central to a series of tough measures to tackle serious fraud against the European Union.

Home Office Minister Nicholas Baker today gave the UK's support to a Resolution for collective action by Member States against EU fraud which was agreed at a meeting of European Justice Ministers in Brussels.

The Resolution sets out minimum standards which all Member States should have in their national criminal laws for prosecuting and punishing fraud and for co-operating with other countries.

It states that serious fraud should be a criminal, imprisonable and extraditable offence.

The Resolution draws heavily on a major initiative announced by the Home Secretary in March for an effective and legally-binding joint action to combat serious Community fraud.

The Home Secretary announced yesterday that he had secured the agreement of his European colleagues to ask the French Presidency to complete work on this legally-binding instrument during the first half of 1995. This was formally agreed by Ministers today.

Mr Baker said:

"EU fraud can and must be curbed by tough enforcement of national criminal law.

"Fraud and mismanagement of the Community budget provoke more criticism of the Union in the UK than any other subject. We know it is also an issue of great concern to the public in many other Member States.

"This resolution is an important and valuable step on the way to a legally-binding instrument on national criminal law protection against fraud on the Community budget.

"The issues are complex and difficult. But we must all play our part to ensure that further progress is rapid and effective."

This Resolution comes after the publication of the European Court of Auditor's report on the 1993 budget which highlighted the level of fraud and waste in the European Union.

This action in the Justice and Home Affairs pillar of the European Union is one part of a UK-led assault on fraud and waste in the Community, which the Prime Minister will carry forward at the forthcoming European Council meeting in Essen.

D. European Parliament and a Committee of Inquiry

As noted in the main body of the paper, the European Parliament (EP) has power under Article 138c of the Treaty of European Union to set up a temporary Committee to investigate allegations of maladministration. Since publication of this paper Roy Perry MEP (of the EPP Group of the European Parliament) has indeed made an official request (after collecting 157 signatures in support of a motion) for the EP to set up a committee of inquiry into Euro-fraud. This would be the first such committee. The motion called for the European Parliament's Budgetary Control Committee to establish itself as a Committee of Inquiry (COI) in order to investigate instances of a maladministration and fraud relating to Community funds. Mr Wilfried Martens MEP, EPP(CD) Group chairman, is reported³⁷ as saying that the COI has more powers than a normal EP committee such as the Budgetary Control Committee. The COI can question national officials and even Ministers of Member States. It may demand documents necessary and travel to any place its considers useful. The Rules Committee of the EP are apparently deciding how best to put the motion into practice and then it will be submitted to the plenary session for examination.

Important Dates

At the end of May 1995, there will be a hearing into fraud co-chaired by the President of the European Parliament and Mrs Diemut Theato, the chairman of the Committee on Budgetary Control.

The Commission's activity report into anti-fraud measures in 1994 is expected to be presented in late March.

³⁷ Agence Europe, 18 Feb. 1995

Part III Sources of Information

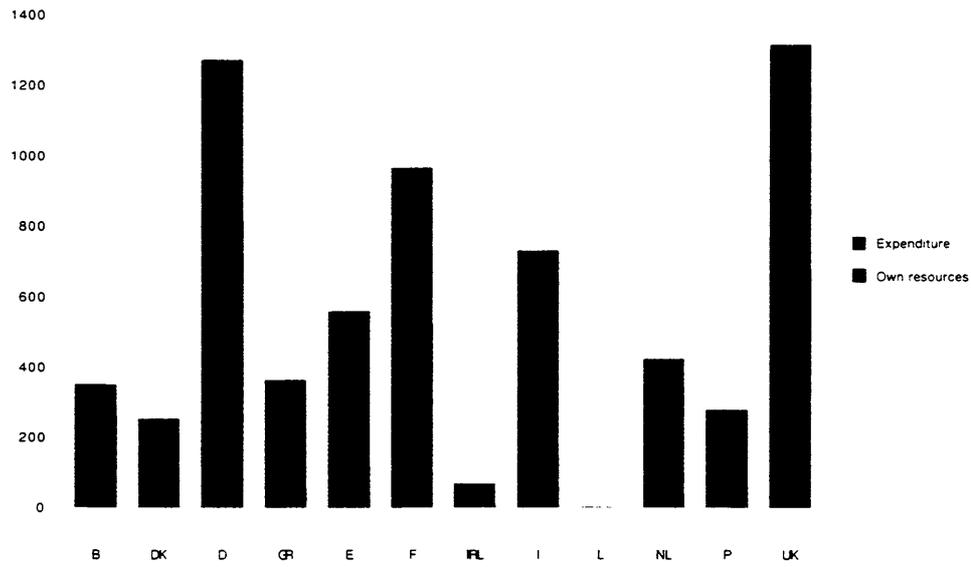
Protecting the Financial Interests of the Community- the fight against fraud, 1993 contains detailed information on detected cases of fraud and irregularities. The Court of Auditors 1993 Annual Report also publishes background information on financial management but it is not really an anti-fraud report. Neither publication provides estimates of the overall level of Euro-fraud. The Court of Auditors report is more of a management audit on how monies have been spent throughout the Union, including whether proper accounting procedures have been followed. A summary and an Explanatory Memorandum have been produced. The House of Lords Select Committee on the European Communities produced a useful report into Financial Control and Fraud in the Community (HL 75, 1993-94).

Own resources and expenditure
1990-93 reports'

FIGURE 2

Number of cases

	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	Total
Own resources	260	86	815	54	115	521	10	140	1	38	59	678	2777
Expenditure	91	168	458	310	444	445	59	590	0	386	221	638	3810



Sums involved (million ECU)

	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	Total
Own resources	23	6	144	2	3	47	6	66	0	2	2	63	364
Expenditure	9	10	60	27	15	50	3	380	0	23	13	22	612

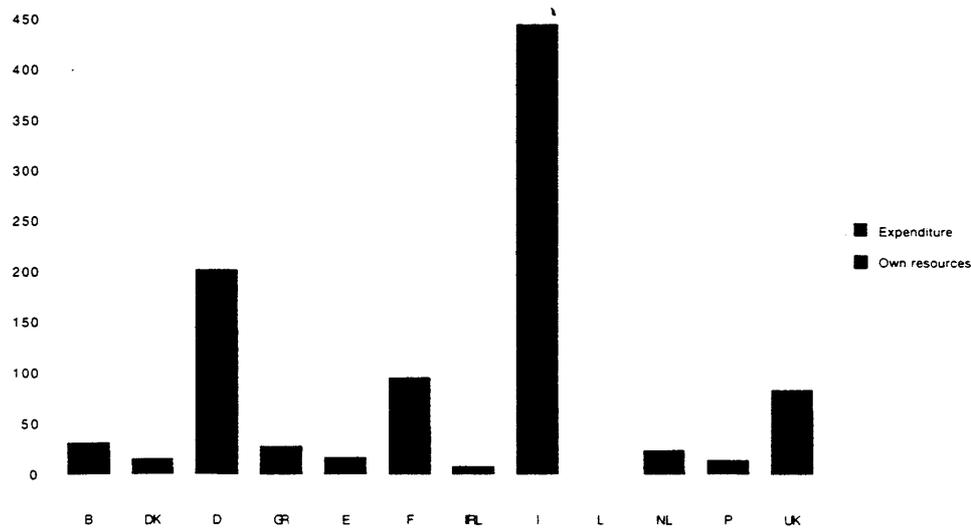
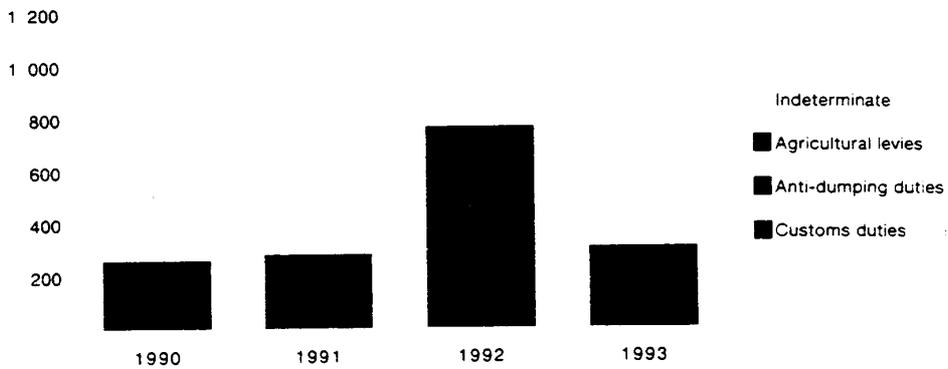


FIGURE 3

Own resources
1990-93 reports¹

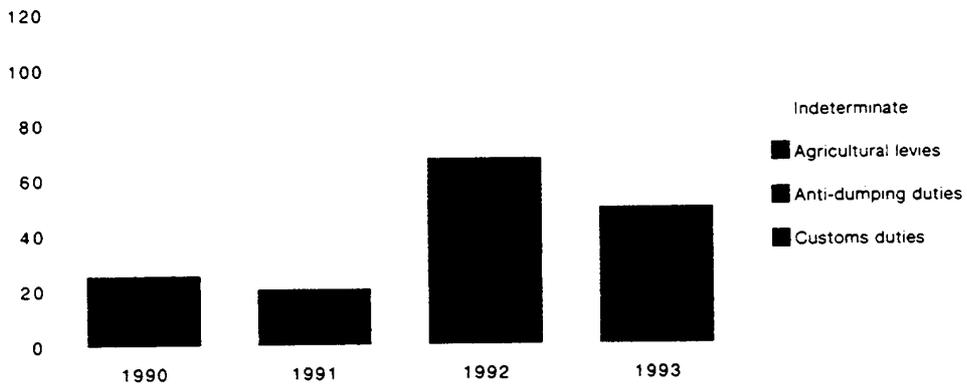
Number of cases

Year	Customs duties	Anti-dumping duties	Agricultural levies	Indeterminate	Total
1990	211	24	24	248	507
1991	246	25	9	422	702
1992	522	28	215	351	1116
1993	225	25	56	146	452
Total	1 204	102	304	1 167	2777

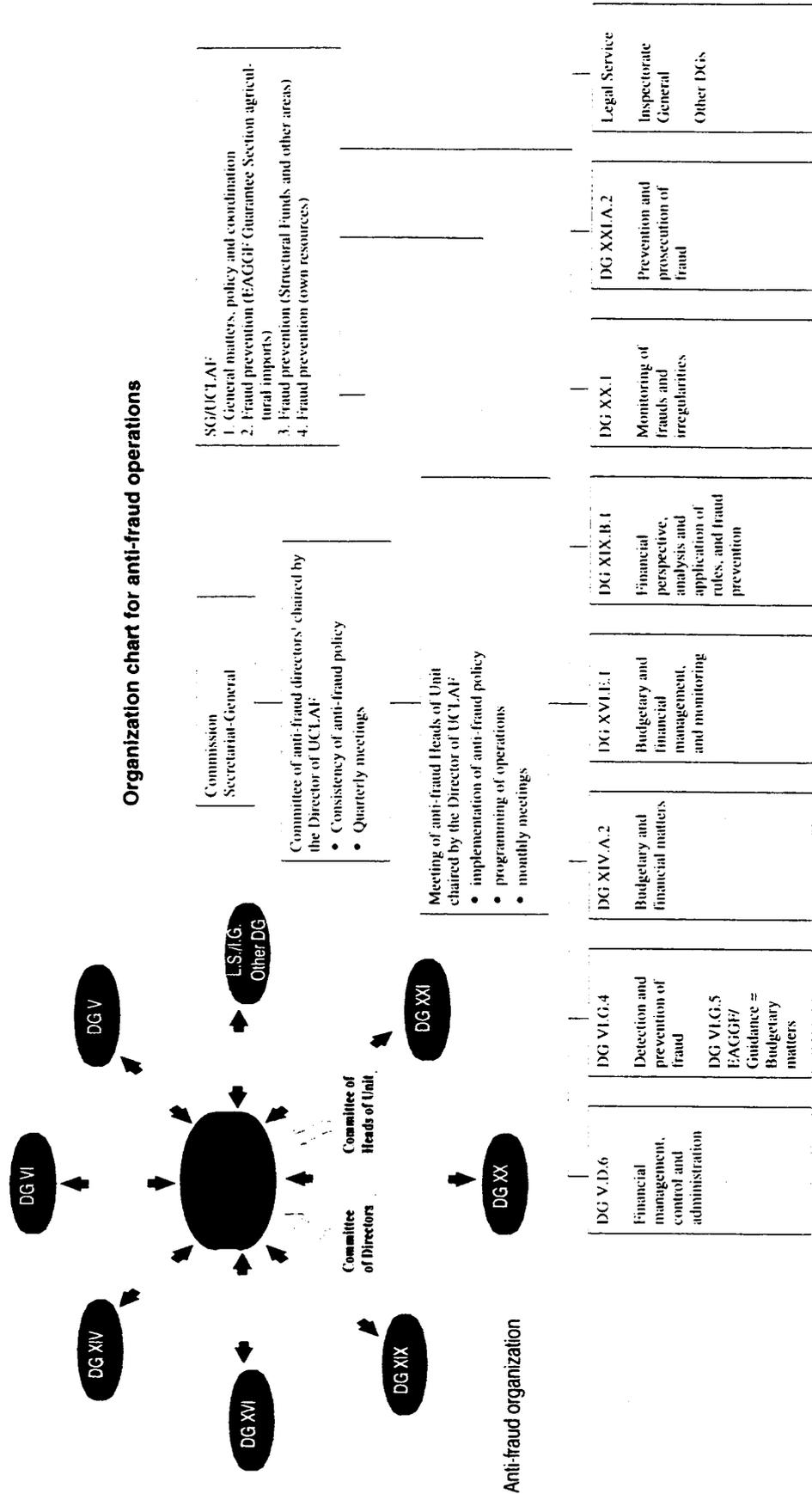


Sums involved (million ECU)

Year	Customs duties	Anti-dumping duties	Agricultural levies	Indeterminate	Total
1990	20	3	2	32	57
1991	15	3	2	97	117
1992	24	8	35	28	95
1993	40	2	7	46	95
Total	99	16	46	203	364



¹ 1993: figures cover only the first six months.



¹ UCLAF and DGs V, VI, XIV, XVI, XIX, XX, XXI

Recent papers on related subjects have been:

The European Communities (Finance) Bill

94/117