



# **Annual Activity Report of the European Anti-Fraud Office (OLAF)**

**1 January – 31 December 2010**

# **PART 1. POLICY ACHIEVEMENTS**

## **Preliminary remarks:**

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 performs its activities with integrity, impartiality and professionalism, respecting individuals' rights and freedoms.

OLAF achieves this by:

- Investigating fraud, corruption and any other illegal activity affecting those interests, and misconduct within the European Institutions;
- Assisting the EU Institutions and national authorities in their fight against fraud;
- Through means of deterrence, prevention and strengthening legislation, making it more difficult for fraud and irregularities to occur and in doing so contributing to public trust in the European project.

OLAF contributes to the strategic objectives of the Commission by detecting fraudulent and other illicit behaviour which undermines EU policies and affects the financial interests of the Union. OLAF's role is essential in defending the reputation of the EU and of its policies as it contributes to the prosperity and security of the Union and reinforces citizens' trust in the EU Institutions. OLAF's operations also contribute to the EU policy of guaranteeing stability and establishing effective partnership with neighbourhood countries.

OLAF's activities differ from those of other Commission services because they are principally concerned with investigations and other operational activities (internal and external investigations, coordination of Member State's investigations or assistance with Member States' investigations); and with the functions necessary to inform and support these operations and to exploit their results.

OLAF achieves its objectives through the development of anti-fraud strategies, covering prevention and deterrence as well as investigation. It demonstrates through its operational successes, principally in investigation cases, that an effective fraud-fighting mechanism is in place in all areas of the Community's revenue and expenditure.

Once a case has been closed, OLAF monitors how any recommendation it has made for judicial, disciplinary, administrative and financial follow-up are implemented by the competent authorities, and gives further support to these authorities whenever necessary.

The Annual Activity Report (AAR) for 2010 sets out, in the standard format of Commission AARs, a comprehensive picture of OLAF's main achievements, covering both aspects of OLAF's roles: those of an independent operational nature and those undertaken as a Commission service responsible both for anti-fraud policies and for the management of two expenditure programmes.

Mr Nicholas Ilett was acting Director General of OLAF from 9 January 2010 until after the end of the period covered by this report.

The protection of the EU's financial interests is an area of shared responsibility between the EU institutions and Member States. In those spending areas where the Member States implement the budget (agricultural policy, structural funds and pre-accession funds) and for the collection of the Community's own resources, Community legislation requires Member States to report suspicion of fraud and other irregularities affecting the EU's financial interests.

OLAF has continued to invest specific attention to increasing the effectiveness and efficiency of the Office in the exercise of its independently executed investigative and operational activities, while at the same time taking care of its specific mission in contributing to the development of anti-fraud methods and a culture of prevention.

The next section of this report illustrates the main activities and related results which have contributed to the achievement of the specific objectives in the 2010 OLAF Annual Management Plan (AMP).

## **Section 1.2 – Achievements by ABB Activities (operational activities)**

OLAF's core activities of investigations and operations, the policy and legislative activities in the area of the protection of financial interest of the Community, and also several intelligence/supporting activities, are set out in the two Activity Based Budgeting (ABB) activities as follows:

A. Activity A, linked to chapter 24 01 of the budget, dealing with administrative expenditure in the domain of fight against fraud policy area; (Chapter 1.2.1) covers the administrative costs of OLAF's operational and administrative activities.

B. Activity B, linked to chapter 24 02 of the budget, dealing with activities to fight against fraud (Chapter 1.2.2), covers activities to support Member States and targeted third countries in improving their capabilities to fight fraud against the financial interests of the EU.

### **OLAF's main policy results:**

OLAF's major policy results for 2010 include:

- the adoption of the Reflection Paper on the OLAF reform<sup>1</sup> in July 2010. Commissioner Šemeta presented the Reflection paper to the European Parliament and to the Council later in 2010
- the preparation of a revised proposal for amending regulation 1073/1999 concerning investigations conducted by OLAF
- the adoption of the Regulation (EU) No 1210/2010 of 15<sup>th</sup> December 2010 concerning authentication of euro coins and handling euro coins unfit for circulation.

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<sup>1</sup> SEC (2010)859.

OLAF has also contributed to the signature by the Commission of two cooperation agreements with tobacco manufacturers (British American Tobacco<sup>2</sup> and Imperial Tobacco Limited<sup>3</sup>).

The Commission Work Programme (CWP) 2011 was adopted on 27 October 2010<sup>4</sup> and includes the following initiatives to be prepared by OLAF in 2011:

- the communication on the Anti-fraud strategy<sup>5</sup>
- the revised proposal for amending regulation 1073/1999 concerning investigations conducted by OLAF<sup>6</sup>
- the communication on the protection of the financial interests of the European Union, including by criminal law<sup>7</sup> and the respective follow-up legislative proposal planned for 2013<sup>8</sup>
- the recast of Regulation n° 515/97 on mutual administrative assistance in customs and agricultural matters and of Decision 2009/917/JHA<sup>9</sup>.

### **OLAF's main operational investigative achievements**

OLAF's operational results are presented in greater detail in its annual operational report, published by OPOCE and available on OLAF's website at [http://ec.europa.eu/anti\\_fraud/reports/olaf\\_en.html](http://ec.europa.eu/anti_fraud/reports/olaf_en.html). The report covering 2010 will be published in the summer of 2011.

- The clearance rate was 1.2 in 2010 (225 cases opened and 188 closed for Dir. A and Dir. B), a slight increase over the 1.16 figure of 2009.
- The proportion of cases resulting in follow-up actions in 2010 was consistent with the figures over the past three years. OLAF continues to give priority to cases likely to result in judicial and financial outcomes.
- The average duration of the active stage of investigation cases has decreased from 763 days in 2009 to 686 days in 2010.
- The *de minimis* policies have been progressively implemented in the OLAF investigative practices when opening investigations and when transmitting cases before national courts.
- OLAF continues to pay specific attention to the appropriate follow-up on its cases by the competent national authorities.

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<sup>2</sup> Cooperation Agreement signed between with British American Tobacco, the Commission and the Member States in July 2010.

<sup>3</sup> Cooperation Agreement signed between the Commission, the Member States and Imperial Tobacco Limited in September 2010.

<sup>4</sup> COM (2010) 623 final.

<sup>5</sup> Cf. CWP 2011 annex I item 32.

<sup>6</sup> Cf. CWP 2011 annex I item 81.

<sup>7</sup> Cf. CWP 2011 annex I item 80.

<sup>8</sup> Cf. CWP 2011 annex I, part 2012-2014 item 51.

<sup>9</sup> Cf. CWP 2011 annex III item 36.

**SPECIFIC OBJECTIVE 1: Further improve the efficiency and effectiveness of OLAF's operational activities**

**Effectiveness**

**1.1 Translate OLAF's operational results into a sharper focus on the most serious cases**

<i>Result indicators</i>	<i>Latest known result<sup>10</sup></i>	<i>Target (mid-term)</i>
1.1.a Percentage of external investigation cases opened in the customs, cigarettes and trade sectors with a likely financial impact above €1 000 000	50.0 % (2009: 66.7%)	Full compliance
1.1.b Percentage of external investigation cases opened in the agriculture and structural funds sectors with a likely financial impact above €100 000	76.5 % (2009: 69.2%)	Full compliance
1.1.c External investigations Percentage of direct expenditure and external aid <u>investigation</u> cases opened with a likely financial impact of €50 000 or more (indicative monetary threshold) Percentage of direct expenditure and external aid <u>monitoring</u> cases opened with a likely financial impact of €100 000 or more (indicative monetary threshold)	45.8% (2009: 26%)  50.0% (2009: 50.0%)	Monitored during 2010 (2011 result indicator is close to 90%)
1.1.d Internal investigations Percentage of internal investigation cases opened in accordance with the agreed assessment criteria which are based on a minimum amount indicator as combined with an indicator that takes into account the nature of the facts. Accordingly, a case should be opened if there is information on systemic or systematic fraud or if there is a likely financial impact of at least €1 000 (indicative monetary threshold). Cases that do not fulfil this <i>de minimis</i> assessment are referred to another body with more	25.0% (2009: 40.8%)	Monitored during 2010 (2011 result indicator is close to 90%)

<sup>10</sup> Latest known result refers to the result as of 31.12.2010 unless otherwise specified.

appropriate powers (for example, IDOC)		
1.1.e Keep operational activities focused on geographical areas of high financial risk. Number of open investigations in 2010. (2009: Romania and Bulgaria- 45; ENP- 10; Africa- 12)	Aggregate for 2010 for Directorates A and B: <ul style="list-style-type: none"> <li>• Romania and Bulgaria: 47 records</li> <li>• European Neighbourhood Policy (ENP) countries: 13 records</li> <li>• Africa: 15 records</li> </ul>	Step up OLAF's efforts targeted on: <ul style="list-style-type: none"> <li>• Bulgaria, Italy, Greece and Romania</li> <li>• EU enlargement countries</li> <li>• European Neighbourhood Policy (ENP) countries</li> <li>• Africa and South America</li> </ul>

<b>Efficiency</b>		
<b>1.2 Clearance rate (number of cases opened/number of cases closed)</b>	1.2 (2009: 1.16)	Close to 1
<b>1.3 Ensure compliance with guidelines on the duration of cases by type of case</b>		
<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
1.3.a Percentage of investigation cases closed in less than 24 months (730 days)	63.3 % (2009: 58.8%)	75 % of cases closed within 24 months, of which 10 % in less than 9 months
1.3.b Percentage of internal investigation cases closed in less than 24 months (730 days)	70.0 % (2009: 62.2%)	
1.3.c Percentage of external investigation cases closed in less than 24 months (730 days)	58.9 % (2009: 52.4%)	
1.3.d Average duration of active stage of cases	686 days (2009: 763 days)	Achieve an average duration of the active stage of cases of less than 24 months (730 days)

<b>1.4 Deal with cases effectively on the basis of set priorities</b>		
<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
1.4.a Number of ongoing cases per investigator (including assessments)	8.72 (2009: 7.38)	Less than 8
1.4.b Number of ongoing cases per investigator	Dir. A: 4.48 (2009: 4.33) Dir. B: 3.80 (2009: 3.03)	Dir. A: less than 4 Dir. B: less than 5

(excluding assessments)		
1.4.c Number of ongoing external investigations per investigator	1.44 (2009: 1.17)	Less than 2

\*Monthly report December 2009

### **SPECIFIC OBJECTIVE 3: Maintain appropriate follow-up of OLAF investigations**

#### **3.1 Ensure compliance with guidelines on thresholds and criteria for opening follow-up paths**

<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
3.1.a Percentage of financial follow-up paths opened for external cases on direct expenditure and external aid with a financial impact above €50 000	94.1% (2009: 84.0%)	100 %
3.1.b Percentage of financial follow-up paths opened for external cases on customs, cigarettes and trade with a financial impact above €1 000 000	44.4% (2009: 100%)	100 %
3.1.c Percentage of financial follow-up paths opened for external cases on agriculture and Structural Funds with a financial impact above €100 000	66.7% (2009: 90.0%)	100 %
3.1.d Percentage of financial follow-up paths opened for monitoring cases with a financial impact above €100 000	74.1% (2009: 75.0%)	100 %
3.1.e Percentage of cases closed with follow-up out of the total number of cases closed	52.1% (2009: 56.4%)	consolidate

#### **3.2 Ensure appropriate judicial and disciplinary follow-up**

<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
3.2.a All final case reports where criminal offences may have been committed transmitted to the competent judicial authorities Supervisory Committee informed five days in advance of transmission	Complete and timely transmission of information to the competent authorities	Internal review of the case within 15 days Initial contact with judicial authorities within 10 days of completion of internal review Transmission of the case within 40 days from the previous stage

3.2.b Regular contacts with national judicial authorities maintained during the judicial follow-up stage	Compliance with six-months review procedure	Establish and check a six-months review via the proper path in the CMS to identify and refer to the relevant contacts (services and persons)
3.2.c All cases in which proceedings were dismissed by the national judicial or disciplinary authority analysed and made available to the Directorates concerned	Documentation of each case where proceedings are discontinued Reporting of the grounds for court decisions in the closure note	Record and analyse the judicial and disciplinary decisions
3.2.d Timely closure procedure maintained for judicial and disciplinary follow-up: time for closure shortened compared with 2009	Compliance with six-month review procedure	Set a period of six months between receipt of the relevant information and closure of the judicial and disciplinary follow-up of the case

<b>SPECIFIC OBJECTIVE 4: Establish an anti-fraud culture to prevent and deter fraud and corruption</b>		
<b>4.1 Improve stakeholder engagement and cooperation</b>		
<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
4.1.a Cooperation with other institutions and bodies of the EU and from Member States facilitated and increased	Two relevant conferences in 2010 held, the 8 <sup>th</sup> fraud prosecutor's conference and the OLAF conference on cooperation with operational partners  Conferences in Panama (October 2010) and Nairobi, Kenya (July 2010)	Ensure that the Office can count on the support of a wide range of stakeholders to fulfil its mission  New Cooperation Arrangement with Europol  At least 10 stakeholder conferences
4.1.b Compliance with anti-fraud provisions during accession under 'Chapter 32' promoted Close working relations established with AFCOS	Ongoing negotiations with: Croatia — legal basis for AFCOS; adoption and implementation of a national anti-fraud strategy Turkey — AFCOS contact point designated Initial contacts: FYROM/Western Balkans	Strengthen the capacity of candidate and potential candidate countries to protect the EU's financial interests and to fight fraud  AFCOS conference

4.1.c Operational cooperation between customs authorities in the Member States and third countries facilitated	Three joint customs operations (JCOs) supported in 2010	Support four or five joint customs operations
4.1.d Compliance by Member States and accession countries in reporting irregularities under sectoral legislation managed, including appropriate training, data input and quality management	As reported in Article 325 TFEU report	Facilitate full compliance with the regulations by duly monitoring and supporting Member States and accession countries
4.1.e Anti-fraud training provided for other Commission departments, Member States and international organisations	Implementation of a number of anti-fraud training events for 27 MS, EU bodies and other European Commission DGs	Pilot training project with DG REGIO and DG EMPL as part of the Joint Fraud Prevention Strategy with OLAF. Follow-up training on OLAF/DGT seminar on translation issues. Prepare an anti-corruption workshop in collaboration with ICAC
<b>4.3 Improve awareness and understanding of OLAF's role in fighting fraud and corruption, by establishing an effective communication strategy</b>		
<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
4.3.a Number of press releases Press requests answered 2010: 391 (289)	Press Releases 2010: 15 (2009: 18)	OLAF press releases: 20-30 Press releases by OAFCN members: 20-30
4.3.b Number of press conferences	Joint media actions by OAFCN: in 2010: 5 (2009: 4)	At least three press conferences in Brussels or in the Member States
4.3.c Percentage of requests for visits satisfied, number of information visits organised by the Office, total number of people received by OLAF and geographical balance of visitors	35 (estimation until end 2010) visits	45 information visits to OLAF by 800 visitors from a wide geographical area
Number of visits on the Internet site	Number of visits of the website in 2010: 405 269 (2009 : 547 449 ) Number of pages consulted: 2010: 852 479 (2008: 1 242 917 )	<i>higher than in 2010</i>

**SPECIFIC OBJECTIVE 5: Provide the means necessary for partners to tackle fraud and corruption effectively**

**5.1 Facilitate the activities of key partners by means of:**

<i>Result indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
<p>5.1.a High-quality information exchange tools:</p> <ul style="list-style-type: none"> <li>• AFIS</li> <li>• New IMS</li> <li>• ATIS</li> </ul>	<ul style="list-style-type: none"> <li>• AFIS available over the internet allowing targeted third countries also to participate in Joint Customs Operations (JCO)</li> <li>• Irregularities Management System (IMS) supporting electronic communication of irregularities by Member States fully implemented</li> <li>• Anti-Fraud Transit Information System in operation to monitor sensitive goods</li> </ul>	<p>Provide the IT infrastructure for better targeting of the operational activities of OLAF and the Member States, including related training and quality management</p>
<p>5.1.b Hercule technical assistance to the national authorities for applying investigative tools and new equipment in the fight against corruption and fraud, including cigarette smuggling and counterfeiting Dissemination of better knowledge on the fight against fraud by related training events and conferences</p>	<ul style="list-style-type: none"> <li>• over 108% of commitment of the budget</li> <li>• Satisfactory technical assistance provided in targeted areas</li> <li>• Balanced geographic spread achieved</li> <li>• During 2009, following two calls for proposals, 12 projects addressing various fraud-fighting matters were approved and implemented.</li> <li>• Revision of the 2010 Call documents to make the process easier and more clear for all applicants</li> <li>• 2 Calls published in 2010 with 22 applications received.</li> </ul> <p>Hercule Conferences (procurement): The 2010 planning foresees 12 conferences in MS as well as third countries for an audience ranging from 60 to 200 participants from all areas of anti-corruption (prosecutors, customs, magistrates, international organizations, etc). 11 conferences were organized in 2010.</p>	<ul style="list-style-type: none"> <li>• Execution of the budget [target: 90 %]</li> <li>• Organise two training events on forensic computing</li> <li>• Increase degree of satisfaction among recipients and stakeholders</li> </ul>

	<p>The European Lawyers' Association Sector (grants)</p> <ul style="list-style-type: none"> <li>• During 2009, following two calls for proposals, 10 projects addressing various legal fraud-fighting matters were approved and implemented.</li> <li>• During 2010, following two calls for proposals, 8 projects addressing various legal fraud-fighting matters were approved for implementation in 2010 and 2011.</li> </ul> <p>With respect to 2009 projects 6 conferences were held (out of 10 projects). 96,6% of respondents of collected evaluation forms rated the event as good or excellent.</p>	
<p>5.1.c Improved coordination and expertise of anti-fraud bodies to tackle euro counterfeiting</p> <p>Technical assistance (Pericles) and methodology on counterfeit coins Commitment of over 80 % of the Pericles budget Focus on selected geographical areas Degree of satisfaction Creation of new classes and variants Improvement of procedures, tools and assessment method</p>	<ul style="list-style-type: none"> <li>• 3 meetings of the Euro Counterfeiting Experts Group (ECEG) in 2010</li> <li>• 4 Counterfeit Coin Experts Group (CCEG)/European Technical and Scientific Centre (ETSC) work team meeting in 2010</li> <li>• 1 high-level inter-institutional meetings organised/participated</li> <li>• Creation of 10 new classes and 30 new variants of euro coins</li> <li>• over 100% of commitment of the budget of Pericles</li> <li>• 17 projects financed under Pericles in 2010</li> <li>• 3 actions in high-risk areas in 2010</li> </ul>	<p>Launch five actions in high-risk areas such as the Balkans, Turkey and South America Support actions in Member States facing challenges in the fight against euro counterfeiting (Bulgaria and/or Italy) Diversify participation in Pericles by supporting a wider range of national authorities in two actions Create 10 new classes and 30 new variants Revise the analysis procedure for counterfeit euro coins and prepare a classification assistant</p>

## Part 2: MANAGEMENT AND INTERNAL CONTROL SYSTEMS

### Section 2.1 - Inherent nature and characteristics of the DG's risk and control environment

#### *2.1.1 The European Anti-Fraud Office in 2010*

OLAF operates within a complex institutional framework and is at the centre of a group of bodies concerned either directly or indirectly with fraud prevention. These bodies fall into three sub-groups:

- a) Those located in the Member States or third countries, such as police and customs services, judicial authorities and administrative anti-fraud authorities;
- b) Community bodies, such as OLAF's own Supervisory Committee, the Investigation and Discipline Office of the Commission (IDOC), each institution's internal audit service, the audit capabilities of the Commission's operational departments; and
- c) Other intergovernmental law enforcement bodies, such as Eurojust and Europol at EU-level or international organisations such as the UN, the World Bank, Interpol etc.

As the Member States are responsible for managing around 80% of European Union expenditure as well as for the collection of traditional own resources, it is essential for the effectiveness of the Office to work closely with national authorities (police, customs, the courts, etc.). The Member States are responsible for criminal proceedings where appropriate, and the diversity of their judicial systems renders the Office's task particularly complex. Moreover, the effectiveness of the investigation stage may be reduced if the Member States do not adequately respond to the Office's requests for support.

OLAF has a small operational budget and limited financial transactions. OLAF mainly handles financial transactions linked to two programmes: Hercule II (protection of EU financial interests) and Pericles (protection of the Euro). Internal controls on transactions are performed as explained under par. 3.1.1 hereafter. As such, the OLAF control system is in particular focused on addressing risks linked to its core business, that is to say the assurance of the quality of investigations, the protection of the individual rights of the persons involved and the secure handling of sensitive documents. OLAF's internal control system is set up to provide reasonable assurance that this will be achieved.

Throughout 2010 OLAF was headed by an acting Director-General (Nicholas Ilett). The Director-General of OLAF is responsible for the conduct of OLAF investigations. In order to guarantee the independence of OLAF in its investigative function, the legislation obliges the Director-General of the Office neither to seek nor take instructions from any government or any Institution (including the Commission). If the Director-General of OLAF is of the opinion that the Commission has taken a measure that challenges his independence, he has the possibility of bringing a case against the Commission before the Court of Justice.

To strengthen this independence, the Office is subject to regular control of its investigative functions by a **Supervisory Committee**, made up of five outside persons independent of the

Community Institutions, who are highly qualified in the areas of competence of the Office<sup>11</sup>. The members of the Committee are appointed by common accord of the European Parliament, the Council and the Commission for a three-year term, renewable once. At the request of the Director-General or by its own initiative, the Supervisory Committee delivers opinions to the Director-General concerning the activities of the Office, without, however, interfering with the conduct of investigations in progress. The Director-General and his services meet the Supervisory Committee regularly. Recommendations by the Supervisory Committee in its opinions delivered in 2010 have been duly analysed OLAF. Follow up has been given, as appropriate.

- **Working relations with the Commissioner and his Cabinet**

Whereas in the area of investigations as defined in Article 2 (1) of the Commission Decision of 28 April 1999 establishing OLAF the OLAF Director-General acts in complete independence, in the areas of competence set out in Article 2 (2) to (7) of this Commission Decision OLAF works under the authority of the responsible Commissioner, in 2010 Mr Šemeta .

The responsible contact points for relations with the Cabinet in the Office are the Assistants of the Director General as well as the Director of Directorate D (General Affairs) and a designated member of Unit D3. Details of the cooperation are laid down in the Practical Arrangements governing working relations between Commissioner Šemeta, his Cabinet and OLAF which were signed on 17 June 2010.

Regular meetings (once a month) and several other ad-hoc technical meetings (e.g. on Legislation, Strategic Intelligence, Press communication, SPP cycle, Budget review, etc) were held between the Commissioner Šemeta and OLAF during 2010.

- **Organisational structure**

Three of the four Directorates concentrate largely on OLAF's core business, i.e. case related activity. Two Directorates conduct or coordinate the anti-fraud cases. A third Directorate mainly supports this case-related activity (intelligence and analytical support, IT forensics, legal and technical advice, liaison with national judicial authorities, follow-up of cases, etc). A fourth Directorate also contributes to this activity by the maintenance of a dedicated database, by providing resources and support and by ensuring that the experience gained is put to the benefit of the Institutions and the Member States.

The available resources were assigned according to the needs of each Directorate. Whenever necessary, management aligns the organisational structures and staff allocations with priorities and workload. In 2010, several middle management and one senior advisor post were filled replacing acting managers and thus further stabilising the management structure and strengthening management capacity.

### ***2.1.2 Major events of the reporting year having an impact on reputation***

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<sup>11</sup> [http://ec.europa.eu/dgs/olaf/sup\\_comm/index\\_en.html](http://ec.europa.eu/dgs/olaf/sup_comm/index_en.html)

OLAF does not consider that any events have taken place in 2010 which have caused a sufficiently significant impact on its reputation to justify a reservation.

## **Section 2.2 –The functioning and effectiveness of the Internal Control Standards for Effective Management**

### ***2.2.1 Reporting on compliance with the requirements***

In 2010, OLAF complied with all internal control baseline requirements relevant for the Office, with the exception of Baseline requirements 7.4 and 7.5, for which OLAF will take further action in order to achieve full compliance in 2011:

- Baseline requirements 7.4 and 7.5 regarding the establishment of a mobility policy, for which an action was envisaged for 2010, had to be postponed. OLAF complies with the baseline requirements for sensitive functions. A Time-limited derogation was given to management staff who exceeded the seven-year limit in order to prepare their redeployment (one person) in the context of a planned reorganisation which had to be postponed due to reasons outside of OLAF's control.

### ***2.2.2 Reporting on effectiveness of the implementation of the Internal Control Standards for Effective Management***

This section reports on the results of the actions taken on each priority standard identified in the AMP 2010 of OLAF.

<b>Standard</b>	<b>Description of the context and actions taken in 2010</b>
<b>2. Ethical and organisational values:</b> Management and staff are aware of and share appropriate ethical and organisational values and uphold these through their own behaviour and decision-making.	<p><b>- Activities exposed to conflict of interests, misuse of insider information or other ethical issues.</b></p> <p>OLAF's mission implies a high degree of sensitivity of the information handled by its staff. The treatment of incoming information and its management throughout the life-cycle of the investigation is critical to the success of OLAF's work. Provisions related to the handling of confidential and/or personal information are made available to all staff as they may endanger the outcome of investigations. OLAF's activities are also sensitive in that they can be of critical interest for external parties, economic operators and/or individuals.</p> <p>The new Manual which was implemented in 2010 puts great emphasis on this standard and integrates it throughout the different procedures.</p> <p>Further efforts are being made in order train staff on the new manual, which has been clearly communicated to staff on various occasions.</p>
<b>5. Objectives and Performance Indicators:</b> The DG's objectives	Improvements have been made to the structure and the content of the documents and simplification was achieved. The

<p>are clearly defined and updated as necessary. They are formulated in a way that makes it possible to monitor their achievement. Key performance indicators are established to help management evaluate and report on progress made in relation to their objectives.</p>	<p>effectiveness of the investigations has been submitted to objective scrutiny. The use of quantitative targets has been further increased in the preparation of the AMP 2011 in order to improve the measurability of the achievements of objectives and of the performance indicators.</p>
<p><b>8. Processes and Procedures:</b> The DGs processes and procedures used for the implementation and control of its activities are effective and efficient, adequately documented and compliant with applicable provisions. They include arrangements to ensure segregation of duties and to track and give prior approval to control overrides or deviations from policies and procedures.</p>	<p>- <b>Complex activities:</b> Further concentration of OLAF resources is expected in the coming years on the most serious fraud cases, both within the Institutions and in sensitive areas of the Budget such as procurement and external aid. Greater and more effective cooperation both between European bodies and internationally will be an essential part of this process.</p> <p>A revised legislative reform proposal to strengthen the legal framework in which OLAF operates has been prepared.</p> <p>The OLAF Manual provides for a complete operational framework to practically implement all current regulatory requirements. The annexes thereof have been completed in 2010. These include the definition of guidelines on the relevant aspects of the operational activities, notably to implement de minimis policies for the opening of investigations.</p> <p>The Supervisory Committee also monitors the implementation of OLAF's investigative function without interfering with operational activity. OLAF accordingly cooperates with the Committee under the authority of the Director General. Recommendations by the Supervisory Committee in its opinions are duly analysed OLAF. Follow up is given, as appropriate.</p> <p>- <b>Activities presenting significant risks related to Data Protection:</b> Compliance with Regulation (EC) 45/2001 on data protection<sup>12</sup> is a comprehensive and challenging aspect of OLAF's operational work, in particular since the requirements of data protection have to be balanced with the fulfilment of OLAF's investigative and operational tasks.</p> <p>OLAF staff must at all times respect the rules on the protection of personal data established in Regulation (EC) 45/2001, in particular the requirements with respect to data quality, providing information to the data subject, rights of the data subject regarding access, rectification, blocking, and erasure.</p>

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<sup>12</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

	<p>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 completed all prior checking of risky processing operations with the EDPS and has implemented most of the recommendations in his opinions. OLAF has developed a Data Protection Module in the CMS to assist case handlers in observing data protection requirements in their daily work.</p> <p><b>Activities involving third parties:</b> The cooperation with Member States and EU law enforcement agencies in all aspects of the Office's work continued to be one of OLAF's main objectives as will be the relations with other services and Institutions. OLAF's efficiency is closely linked to that of the Member States authorities in the gathering of intelligence and the follow-up of the Office's recommendations. Significant progress has for instance been made possible by the designation of an AFCOS (Anti-Fraud Coordination Service) in each new Member State and candidate country during the enlargement process.</p> <p>Beyond Europe, OLAF has forged effective partnerships with its sister agencies in the United Nations and the World Bank. OLAF's ability to add value in the coordination of international operations is now well established.</p> <p>Negotiations were closed on the Financial Cooperation Chapter (Control and anti-fraud provisions) of the EU-Ukraine Association Agreement (AA) and ongoing negotiations with Moldova (MD) on Association Agreement.</p> <p>Ongoing contacts with several third-country authorities and international organisations on signing and implementing Administrative Cooperation Arrangements (ACAs). Provisions on mutual administrative assistance in customs matters and customs anti-fraud clauses currently being negotiated with six ACP/EPA groups, India, Ukraine, Canada, Singapore, Mercosur, Malaysia and Libya".</p> <p>Ongoing management of customs MAA provisions and contacts with 56 partner countries.</p> <p>OLAF systematically ensures that confidentiality and data protection rules principles are taken into account when exchanging information with external partners.</p>
<p><b>9. Management Supervision:</b> Management supervision ensures that the implementation of activities is running efficiently and effectively while complying with applicable provisions.</p>	<p>- <b>Politically sensitive activities:</b> OLAF has particular responsibility for the handling of sensitive information. The Office is responsible for combating fraud and irregularities linked to the financial interests of the EU and for protecting the reputation of the European Institutions. This latter mission includes in particular investigating allegations of suspected wrongdoing by staff employed by the Institutions and bodies of the EU.</p> <p>As in any other investigative service, the outcome of OLAF's investigations can be hampered by the divulgation of information or the improper use of personal data. Therefore,</p>

	<p>OLAF has strengthened its training and awareness-raising activities in order to sensitize and regularly remind its staff about the existing procedures for the handling of information and other security issues.</p> <p>These activities include targeted references to ethics (e.g. in the OLAF Manual, through dedicated training for case-handlers, etc), that are duly documented in OLAF's AMP 2010. In particular, new training courses were organised on interviewing techniques, on the gathering of evidence and on training techniques for occasional trainers; a first session of the OLAF Manual training has been given by internal trainers.</p> <p><b>- Challenge to find experienced or skilled personnel:</b> OLAF still has difficulty in recruiting operational staff with an appropriate mix of qualifications and experience and remains under significant staffing constraints as it is confronted with an ever increasing workload. Nevertheless, the situation has improved due to dedicated external and internal competitions in 2008 and 2009 respectively and subsequent publication of the reserve lists. In 2010 OLAF further stabilised and retained the staff required to fulfil its mission with 51 new recruitments. A significant number of which concerned recruiting former temporary agents to be officials and thus reducing the ratio of temporary to permanent staff, nearing the 20% to 80% ratio which was agreed in the 2007 political agreement between Vice President Kallas, OLAF and Staff representation for OLAF temporary agents and ensuring continuity of OLAF's staffing. The vacancy rate in 2010 has been quite low at 7.0%. Recruitments following the two internal competitions with a view to reducing further the ratio of temporary to permanent staff and retaining experienced staff took, due to administrative delays, only effect on 1 January 2011 The results will thus be reported in the 2011 AAR.</p> <p>OLAF further improved the representation of women amongst its AD staff, reaching 28.6 % and met targets for the recruitment of colleagues from the EU-10 and EU-2. However further efforts are necessary with regard to female representation at management level which currently at 15% for middle managers remains well below Commission average (23.2%).</p>
<p><b>12. Information and Communication:</b> Internal communication enables management and staff to fulfil their responsibilities effectively and efficiently, including in the domain of internal control. Where appropriate, the DG has an external communication strategy to ensure that its external communication is effective, coherent and in line with the Commission's key political</p>	<p><b>- Internal Communication.</b></p> <p>Internal communication continued to be an important priority in 2010. OLAF Intranet was further developed and new articles started to be published on it on a regular basis. In the second half of the year the intranet was supplemented by a weekly e-mail newsletter which is used to channel all communication previously sent to via e-mail to all OLAF staff.</p> <p>The face to face communication continued to be in the centre of the communication strategy: staff meetings were organized as necessary and lunch time presentations were held on specific topics of wider interest.</p>

<p>messages. IT systems used and/or managed by the DG (where the DG is the system owner) are adequately protected against threats to their confidentiality and integrity.</p>	<p>Adoption of further best practices of other DGs was being prepared and implementation is expected in 2011.</p>
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### **2.2.3 Conclusion**

OLAF implements the SPP cycle for all its activities with special attention to the establishment of indicators, allowing its management closely to follow up the implementation of its activities. The control measures in place in order to provide sound financial management provide reasonable assurance on the implementation of OLAF's budget.

In relation to OLAF's case related activity, OLAF is able to give reasonable assurance that the internal control measures in place provide the necessary control on the quality and legality of its operations.

OLAF implemented each priority standard effectively, except for the two for which the actions will be finalised in 2011. OLAF does not know of anything which indicates that the other standards are not effectively implemented. The partial compliance with the two standards does not hamper the overall effectiveness of the internal control system.

### **2.3. Information of the Commissioner**

The main elements of this report and assurance declaration have been brought to the attention of Commissioner Šemeta on 21 March 2011.

## PART 3. BUILDING BLOCKS TOWARDS THE DECLARATION OF ASSURANCE (AND POSSIBLE RESERVATIONS TO IT)

### 3.1 Building blocks towards reasonable assurance

#### 3.1.1 – Building block 1: Assessment by management

<p><b>Input</b></p> <p>Resources devoted to ex ante and ex post controls</p>	<ul style="list-style-type: none"> <li>• The financial circuit is a partially decentralised model for which the ex-ante financial verifications are done in the central Budget Unit which includes the visas in ABAC. The operational units are responsible for the operational verifications. In OLAF, all files are verified by at least 3 people (2 financial and 1 operational agent) before they are accepted by the Authorising Officer.</li> <li>• In 2010, the Budget Unit was staffed with 10 persons of whom 2 deal with ex-ante control. Every commitment or payment file is checked by the Financial Verifying Agent (FVA) before it is handed over to the Authorising Officer by Sub Delegation (AOSD) in the operational unit.</li> <li>• The accounts are checked on a monthly basis by the Accounting Correspondent supervised by the AOSD of the Budget Unit.</li> </ul>
<p><b>Output</b></p> <p>Level and nature of controls carried out</p>	<ul style="list-style-type: none"> <li>• Ex-ante controls are carried out by the FVA on every transaction (administrative, grants and procurement files) which requires an approval of the AOSD. In 2010, OLAF received a total budget of €57,1 million for administrative expenses and €20,5 million for the 3 operational programmes (Hercule II, Pericles and AFIS).</li> <li>• Controls are done on the sensitive variables following the results of the risk assessment carried out in the context of the Accounting Quality Report (such as: LE and BA, G/L accounts, budget lines, amounts and calculations, etc.).</li> <li>• Exceptions reports are kept for all derogations and signed at the appropriate management level. These exceptions were not of a nature or extent to lead either to a reservation or to the identification of a material weakness in the internal control system and didn't have an impact on the reasonable assurance. Specific ex-post control is set up for the part of the HERCULE II programme dealing with technical assistance for combating fraud (operational budget).</li> </ul>
<p><b>Result</b></p> <p>What the controls allowed to discover/remedy</p>	<ul style="list-style-type: none"> <li>• Files containing an error are immediately refused by the FVA in the accounting system and send back for correction to the IA. In all cases the discovered errors were related to errors in calculations, the use of wrong use of budget line or G/L account, wrong reason for payment to beneficiary.</li> <li>• No irregularities were identified during the on the spot ex-post controls. This confirms that the implemented ex-ante checks are effective.</li> </ul>

<b>Impact</b>	<ul style="list-style-type: none"> <li>No irregularities were indentified which could have a material impact on the assurance building process.</li> </ul>
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### **3.1.2 – Building block 2: Results from audits during the reporting year**

**The European Court of Auditors** conducted an audit in order to draw up a Follow-up Report to the Special Report N°1/2005 concerning the management of OLAF. On 9 November 2010 the Court sent its Preliminary observations which were still in discussion at the end of 2010.

**The Internal Audit Capability (IAC) of OLAF** provided an opinion for 2010, which stated that based on the results of their audit on the Investigation Process (External Aid), and as described in the objectives and scope of that engagement, the internal control system in place provided reasonable assurance regarding the achievement of the business objectives set up for the audited activity, except for the 7 observations, for which recommendations were issued rated as of very high or high importance.

In addition to the opinion described above, and taking into account their coverage of the activities of OLAF, the IAC declare that they are not aware of anything which might constitute a major weakness in the internal control system, or lead to a potential reservation in the AAR.

### **3.1.3 – Building block 3: Follow-up of previous years' reservations and action plans for audits from previous years**

There have not been any reservations in previous years and there are no open recommendations from previous audits.

### **3.1.4 – Building block 4: Assurance received from other Authorising Officers in cases of crossed sub-delegation**

In 2010, OLAF has given crossed sub-delegations to DG RELEX (for re-occurring administrative expenditure linked to the presence of an OLAF staff member in the delegation of Beijing) and DG TAXUD (for an amount of €150.000 for the cooperation in the AFIS project) and it has received 1 crossed sub-delegation from DG AIDCO (for an amount of €50.000, that was made available in the course of 2010 for the co-financing of the Hercule II conference).

The crossed-sub-delegations are granted in accordance with the conditions laid down in the internal rules. OLAF has not carried out any controls on the use of its cross sub-delegation since the execution of its sub-delegated budget is foreseen for 2011. No assurance letters have been received as per the requirement under Art. 66(2) of the Financial Regulation. OLAF

didn't send an assurance letter to DG AIDCO since the execution of the credits is foreseen in the beginning of 2011.

No major issues were noted concerning the reasonable assurance received/given from/to other Authorising Officers for cross sub-delegation concerning the legality and regularity of the financial operations including sound financial management of funds.

### **3.1.5 – Completeness and reliability of the information reported in the building blocks**

OLAF provides reasonable assurance that the information in the 4 building blocks is complete and reliable.

### **3.2 Reservations**

OLAF does not make any reservations to the declaration for 2010.

### **3.3. Overall conclusions on the combined impact of the reservations on the declaration as a whole**

OLAF has sufficient reasonable assurance that a reservation on the declaration is not necessary.

## Part 4: Declaration of assurance

*I, the undersigned Giovanni Kessler, Director-General of OLAF*

*In my capacity as authorising officer by delegation in line with the principles laid down for ensuring continuity of service,*

*Declare that the information contained in this report gives a true and fair view<sup>13</sup>;*

*State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;*

*This reasonable assurance is based on my own judgement and on the information at my disposal, which I received from Nicholas Ilett, acting Director-General during the exercise 2010, and which is based on information such as the results of the self-assessment, ex post controls, the work of the internal audit capability, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration;*

*Confirm that I am not aware of anything not reported here which could harm the interests of the Institution.*

Brussels, 31 March 2011

[signed]

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<sup>13</sup> True and fair in this context means a reliable, complete and correct view on the state of affairs in the service.