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29. In accordance with recent agreements made at the informal meeting of the Council in Evian, calls for aid from the EU and its Member States to be allocated in a more coordinated and demand-driven way and for the EU delegation in Jakarta to be given more manpower, so that it can manage this coordination effort;

30. Welcomes the Commission's attempt to increase dialogue with Indonesia, especially the institution of the Senior Official Meetings (SOM), and draws particular attention to cooperation in the cultural sector and more exchanges between universities;

31. Instructs its President to forward this resolution to the Commission, the Council, the parliaments of the Member States, the Government and Parliament of Indonesia, the UN and the UNHCR and the secretariats of ASEAN and ASEM.

14. Protection of Communities' financial interests

A5-0376/2000

European Parliament resolution on the Commission communication 'Protection of the Communities' financial interests – The fight against fraud – For an overall strategic approach' (COM(2000) 358 – C5-0578/2000 – 2000/2279(COS))

The European Parliament,

- having regard to the Commission communication (COM(2000) 358 – C5-0578/2000),
 - having regard to Article 280(5) of the EC Treaty,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to its resolutions of 19 January 2000⁽¹⁾ containing its recommendations to the Commission on introducing protection under criminal law of the Union's financial interests, of 13 April 2000⁽²⁾ containing its proposals for the Intergovernmental Conference (14094/1999 – C5-0341/1999 – 1999/0825(CNS)), and of 16 May 2000⁽³⁾ on the 1998 annual report by the Commission on protecting the Communities' financial interests and the fight against fraud (COM(1999) 590 – C5-0058/2000 – 2000/2032(COS)),
 - having regard to the Court of Auditors' contribution of 18 April 2000 to the Intergovernmental Conference, on improving the protection of the European Union's financial interests,
 - having regard to the conclusions of the Tampere European Council of 15/16 October 1999, in particular regarding the prevention of crime at EU level,
 - having regard to the report of the Committee on Budgetary Control (A5-0376/2000),
- A. whereas fraud against the Communities' financial interests is a serious problem recognised as such and condemned by all Member States of the Union, the scale of which could increase with the enlargement of Community territory and the introduction of the euro,
- B. whereas, ultimately, the victim of such fraud is the European taxpayer,
- C. whereas the fight against fraud against the Communities' financial interests must bring together police, administrative and criminal law resources,
- D. noting that, in the majority of cases, it is not possible either to recover the amounts unduly received or to punish those responsible,

⁽¹⁾ OJ C 304, 24.10.2000, p. 126.

⁽²⁾ 'Texts Adopted', Item 7.

⁽³⁾ 'Texts Adopted', Item 5.

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- E. bearing in mind the progress made as a result of the entry into force of Article 280 of the EC Treaty, since May 1999, and the establishment of the Anti-Fraud Office (OLAF), but noting that the legal and institutional framework they provide is inadequate for effectively combating fraud against the Communities' financial interests,
- F. noting that the 1995 Convention on the protection of financial interests and the protocols thereto have still not been ratified by all Member States and that this is preventing its entry into force and depriving the Community budget (revenue and expenditure) of proper protection,
- G. noting that the principle of national territoriality of the judicial system of each Member State and the differences that exist between those systems are the main obstacles to European judicial cooperation in criminal law matters,
- H. taking note of the observations made by legal and judicial circles as to the serious difficulties impeding such judicial cooperation (length of time required to process international letters rogatory, refusal of cooperation owing to application of the *non bis in idem* principle, differences concerning burden of proof, etc.),
- I. whereas it is incumbent on the legislator to remedy this problem and whereas statements by the Heads of State and Government in favour of judicial cooperation are not enough to establish a European criminal law enforcement area,
1. Considers that the Commission communication on the strategy for fighting fraud essentially constitutes a list of recommendable guidelines requiring the smooth functioning of cooperation between and amongst the various national and Community bodies in order to both prevent and fight fraud; endorses the Commission's wish to involve the applicant countries in this strategy immediately;
 2. Takes note of the Commission's internal reforms concerning the financial management of the various policies, as set out in the White Paper on reform of the Commission (COM(2000) 200);
 3. Notes that the Commission places OLAF at the heart of its strategy for fighting fraud and agrees that there is a need for cooperation between national bodies and OLAF, as this is the key to ensuring that OLAF is successful and credible;
 4. Points out, however, that OLAF's remit, within the Community institutions, bodies, offices and agencies, includes administrative investigations to investigate 'serious matters relating to the discharge of professional duties such as to constitute a dereliction of the obligations of officials and other servants of the Communities liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or members of the staff of institutions, bodies, offices or agencies not subject to the staff regulations of officials or the conditions of employment of other servants of the Communities and on-the-spot checks and inspections in the Member States, though the information gathered by OLAF must be forwarded to the national judicial authorities when they relate to matters liable to result in criminal proceedings';
 5. Notes that the current impasse affecting the setting-up of OLAF has come about because due account has not yet been taken of paragraphs 20 and 21 of its abovementioned resolution of 16 May 2000 on protecting the Communities' financial interests; reaffirms the demands made in those paragraphs, namely:
 - (a) that all staff currently working for OLAF must be asked to reapply for their posts in order to enable the new Director to make a fresh assessment of their suitability;
 - (b) that the Commission accept, without prejudice to the provisions of the Staff Regulations, the Director's personnel decisions, even when this entails officials previously working for OLAF having to be otherwise employed in the Commission;
 6. Reaffirms the call it has already made on several occasions for priority to be given, when filling posts in OLAF, to experienced inspectors, investigators and prosecuting officers from the relevant departments of the Member States; stresses that this must apply in particular to managerial posts;

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7. Insists that the independence from the Institutions, governments and other bodies and, above all, from the Commission, which the legislator intended OLAF to have in terms of its staffing and operational activity (information gathering, investigative activity, follow-up), should become a reality as soon as possible;
8. Reaffirms paragraph 4 of its abovementioned resolution of 16 May 2000 and calls once again on the Commission to submit proposals to strengthen the role of the OLAF Supervisory Committee, for instance by assigning to it a hearing officer modelled on the hearing officers for competition procedures before the Commission⁽¹⁾; this hearing officer would have the task, *inter alia*, of ensuring that the rights of the defence of the parties concerned are guaranteed in investigations and should carry out this role completely independently of the Director of OLAF;
9. Considers that OLAF, which is essentially an investigative body set up before a genuine judicial area has been created, has limits placed on its effectiveness and legitimacy, for substantive law and procedure still vary from one Member State to another and the safeguarding of individual rights is inadequate;
10. Calls, therefore, for the legislator to seek solutions of a more global nature, necessitating the setting-up of procedures that are more binding;
11. Welcomes, therefore, the Commission's approach in submitting to the Intergovernmental Conference, like Parliament and the Court of Auditors (cf. contribution to the IGC) before it, a proposal for amending the EC Treaty by adding an Article 280a, so that a European Public Prosecutor's Office with responsibility for the protection of the Communities' financial interests can be established, which would ensure consistency between investigations conducted throughout the territory of the European Community;
12. Reaffirms paragraph 2 of its abovementioned resolution of 16 May 2000 on protecting the Communities' financial interests and calls on the Commission, as a preliminary step, to present, on the basis of the current Article 280 of the EC Treaty, a proposal to extend Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)⁽²⁾, which would allow the early appointment of such a public prosecutor, whose jurisdiction would be limited, pending the entry into force of the envisaged changes to the Treaty, to criminal offences against the financial interests of the European Communities committed by members and employees of the EU institutions and who would have the task of heading the related OLAF investigations and facilitating the prosecution of such criminal offences in the appropriate national courts;
13. Considers that the Commission strategy for fighting fraud against the Communities' financial interests should incorporate or address the following additional points:

In the short term:

- (a) the need for the European Central Bank and the European Investment Bank to accede to the inter-institutional agreement relating to OLAF⁽³⁾;
- (b) the improvement of the existing system of administrative penalties within the general legislative framework already established by Regulation (EC, Euratom) No 2988/95⁽⁴⁾;
- (c) a set of measures for implementing the strategy set out and an operational timetable, which will need to be forwarded to Parliament as soon as possible;
- (d) an assessment of the applicant countries' laws in terms of the repression of potential fraud against the Community budget, in particular by organised criminal groups;

With regard to OLAF:

- (e) a strengthening of its operational structure by:
 - establishing a 'liaison centre' comprising in particular a magistrates unit, the magistrates being responsible for monitoring investigations and for relations with national judicial authorities;
 - setting up a unit responsible for recovering the amounts defrauded, as envisaged by the White Paper on reforming the Commission (Action 96);

⁽¹⁾ Commission Decision of 12 December 1994 on the terms of reference of hearing officers in competition procedures before the Commission (OJ L 330, 21.12.1994, p. 67).

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

⁽⁴⁾ OJ L 312, 23.12.1995, p. 1.

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With a view to the establishment of a European Public Prosecutor's Office:

- (f) proposals, pursuant to the procedure laid down in Article 251 of the EC Treaty, concerning the conditions governing the performance of the European Public Prosecutor's duties, the definition of offences and penalties, procedural rules, rules of evidence and judicial review of the Prosecutor's actions;
 - (g) the appointment of an independent European Public Prosecutor assisted by Deputy European Public Prosecutors in each Member State, which would provide the structure of a European Public Prosecutor's Office as advocated in the 'Corpus Juris' expert report, to which should be added a European body responsible for overseeing the work of the Prosecutor's Office and taking committal decisions, in accordance with the judicial safeguard principle;
 - (h) a special mechanism needed to govern relations between OLAF and the European Public Prosecutor;
14. Calls for Member States which have not yet ratified the 1995 Convention on the Protection of Financial Interests (Belgium, Ireland, Luxembourg and the Netherlands) to do so as soon as possible;
15. Regrets very deeply that the Nice European Council did not decide on any practical measures with regard to the protection of the European Union's financial interests and, in particular, that the Commission proposal that an Article 280a providing for the establishment of a European Public Prosecutor be incorporated into the Treaty was not accepted, especially as the 1995 Convention on the protection of the Communities' financial interests has not yet been ratified by all Member States and therefore still cannot be applied and is now inadequate;
16. Expects that every effort will now be made to ensure that effective and full protection of the Union's financial interests with the help of a European Public Prosecutor becomes a reality when the next occasion arises;
17. Instructs its President to forward this resolution to the Council, the Commission and the Heads of Government or State meeting within the framework of the Intergovernmental Conference.

15. Reform of budgetary control procedures

A5-0383/2000

European Parliament resolution on reform of budgetary control procedures and institutions (2000/2008(INI))

The European Parliament,

- having regard to Rule 163 of its Rules of Procedure,
 - having regard to Rule 93 and Annex V of its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control (A5-0383/2000),
- A. whereas, pursuant to Article 274 of the EC Treaty, the Commission bears responsibility for implementing the budget in accordance with the principles of sound financial management, notwithstanding the fact that around 85 % of the budget is implemented by national authorities,
- B. whereas, pursuant to Article 276 of the EC Treaty, Parliament is required to give a discharge to the Commission in respect of implementation of the budget and thereby assumes responsibility for ensuring that the Commission meets its Treaty obligations in full,
- C. whereas Parliament is thus accountable to the citizens of the Union for ensuring that their money is spent as economically and efficiently as possible and that the institutions of the Union do everything in their power to reduce the number of errors in the implementation of the budget and to secure maximum protection against fraud, corruption and organised crime,