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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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**COMMISSION STAFF WORKING DOCUMENT**

**Annual Overview with Information on the Results of the Hercule II Programme in 2012  
(Article 7 of Decision 878/2007 of 23 July 2007)**

*Accompanying the document*

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**Protection of the European Union's financial interests - Fight against fraud  
Annual Report 2012**

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The present overview provides information on actions started under the 2012 Hercule II budget as well as information on the results of actions started before 2012 that were finalised in 2012. This overview is in line with Article 7 of the Decision 878/2007 of 23 July 2007<sup>1</sup>.

## 1. INTRODUCTION

### 1.1. Hercule II Programme Description

The Hercule Programme was established by Decision 804/2004/EC for the period 2004-06. By Decision 878/2007/EC, the programme was extended to cover 2007-2013 as Hercule II, with a financial envelope of EUR 98.5 million and an average annual budget of around EUR 14 million.

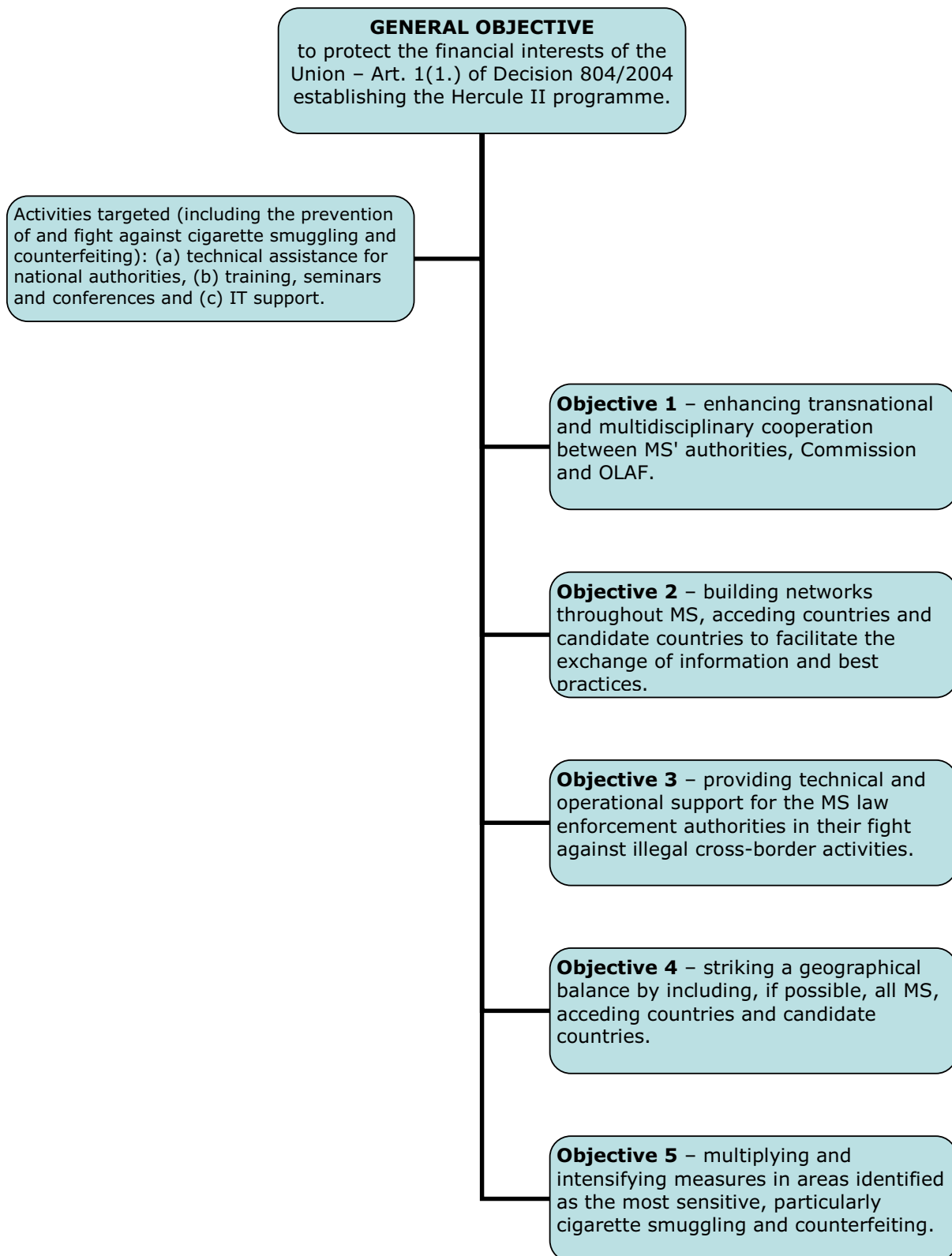
The programme is the only instrument **specifically** dedicated to protecting the financial interests of the EU by supporting the fight against irregularities, fraud and corruption affecting the EU Budget. The Hercule Programme is administered by the European Anti-Fraud Office (OLAF), which is a Directorate-General of the European Commission.

The main objectives of the Hercule II Programme are:

- to enhance cooperation between the actors in the fight against fraud damaging the EU's financial interests, i.e. the competent authorities in the Member States, the Commission and the European Anti-Fraud Office (OLAF);
- to reinforce the networks for the exchange of information between Member States, the accession countries and the candidate countries;
- to provide operational and technical support to law enforcement agencies in the Member States, particularly the customs authorities.

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<sup>1</sup> OJ L 193 of 25 July 2007, p. 18



**General activities supported by the Programme** (as stipulated by Commission Decision C(2012)1057 adopting a Financing Decision for 2012 for Hercule II)<sup>2</sup>:

- organisation of seminars and conferences;
- promotion of scientific studies on Union policies relating to the protection of the Union's financial interests;
- coordination of activities relating to the protection of the Union's financial interests (meetings);
- training and raising awareness, including in connection with joint surveillance operations;
- promoting exchanges of specialised staff;
- development and supply of specific IT tools, data-processing;
- technical assistance, including the purchase of equipment;
- promoting and strengthening the exchange of data;
- provision of information and support for activities relating to access to information, data and data sources;
- purchase of specialised technical hardware and technical support for the monitoring of illegal activities in the field of the fight against fraud.

These activities come under one of the Financing Decision's **chapters 7 until 10 or sectors of activity**, as listed below:

### **7. Technical assistance for the fight against fraud**

7.1.1 Technical support for national authorities' use of special investigative tools and methods in the fight against fraud and corruption, and technical support to strengthen inspections of containers and trucks at the EU's external borders, including the fight against cigarette smuggling and counterfeiting ("Investigation Support").

7.1.2 Technical support for detecting the presence of cigarettes and tobacco ("Cigarettes").

7.1.3 Analysis of cigarette/tobacco samples.

### **8. Training, seminars and conferences – operational part**

8.1.1 Financial support (co-financing) for training and various cooperation measures in the area of the fight against fraud, including the fight against cigarette smuggling and

<sup>2</sup> C(2012)1057 of 21 February 2012. This Decision was published on OLAF's internet webpages.

counterfeiting.

8.1.2 Organisation of training and various cooperation measures in the area of the fight against fraud, including the fight against cigarette smuggling and counterfeiting.

8.1.3 Organisation of training on computer forensic.

8.1.4 Organisation of technical training courses on image interpretation for scanning.

## **9. Training, seminars and conferences – legal part**

### **10. IT support**

10.1.1 Ensure that Member States have access to strategic information in support of investigations.

10.1.2 Develop specific IT tools for data analysis.

10.1.3 Analysis of seized counterfeit cigarettes to determine the origin and create a database to analyse trade flows of counterfeit cigarettes in relation to genuine cigarettes.

The following beneficiaries are eligible for funding under the programme (as stipulated by Article 2a of Decision 878/2007/EC):

- (a) all national or regional administrations of a Member State or a country outside the EU, which promote the strengthening of EU action to protect the EU's financial interests
- (b) all research and educational institutes that have had legal personality for at least one year, are established and operating in a Member State or in a country outside the EU, and promote the strengthening of EU action to protect the EU's financial interests;
- (c) all non-profit-making bodies that have had legal personality for at least one year, are established and operating in a Member State or in a country outside the EU and promote the strengthening of EU action to protect the EU's financial interests.

The countries outside the EU (third countries) are listed in Article 3 of the Decision. The list of third countries includes Croatia (Acceding State) as well as the candidate countries and the EEA/EFTA countries, provided the latter have concluded a participation agreement with the EU.

The Hercule II Programme is administered by the European Anti-Fraud Office (OLAF). Until the reorganisation of February 2012, the programme's activities were carried out by several administrative units within OLAF. Since February 2012, the overall coordination and implementation of the programme is carried out by Unit OLAF.D.5: Hercule, Pericles & Euro protection).

The annual work programme for 2012 was adopted on 21 February 2012<sup>3</sup> and financed under item 24.0201 of the European Union budget for 2012

<sup>3</sup>

C(2012)1057 of 21 February 2012



## 1.2. Purpose and scope of this overview

The annual overview is intended to fulfil the requirement under Article 7 of Decision 878/2007/EC to "provide annual information on the results of the programme to the European Parliament and to the Council". To that end, it covers information on actions for which commitments are made under the Financing Decision 2012<sup>4</sup>.

As Hercule II actions are multi-annual, most of the final reports on the actions funded under the 2012 budget have not yet been received. Section 4 of this overview (Multi-annual impact) thus assesses the impact of previous years' actions that were finalised during 2012 (final technical and financial reports received in 2012).

## 2. BUDGET IMPLEMENTATION IN 2012

Table 1 gives an overview of the available **budget** and the **commitments** made on the 2012 budget as provided for in the Hercule II Financing Decision 2012. The overview is broken down by sector of activity and type of support. The amounts in the "budget" column correspond to the Financing Decision 2012, whereas the amounts in the "commit" column correspond to the aggregated amounts indicated in the contracts and grant agreements concluded by the Commission. The commitment level has increased from 81% in 2011 to 87% in 2012. The **payments** under the grant agreements committed on the 2012 budget cannot be reported as most of the activities are on-going. It is only after the activity has ended that this information can be provided. It must be noted that the payments are mostly lower than the committed amounts as the incurred, eligible costs are almost always lower than the foreseen in the initial budget of the action. The overall budget available for the Hercule II programme in 2012 was increased as the result of a transfer from the 2011 budget.

Table 1: Available budget and commitments<sup>5</sup> made in 2012

SECTOR		BUDGET	COMMIT <sup>6</sup>	%
<b>7. TECHNICAL ASSISTANCE</b>				
Investigation Support (7.1.1)	Grants	3 750 000	3 732 836 <sup>7</sup>	100
Cigarettes (7.1.2)	Grants	3 300 000	2 848 893	86
Tobacco (7.1.3)	Procurement	300 000		
<b>Subtotal Technical Assistance</b>		<b>7 350 000</b>	<b>6 581 729</b>	<b>90</b>
<b>8. TRAINING</b>				
Training (8.1.1)	Grants	1 000 000	794 309	79
Conferences (8.1.2)	Procurement	1 450 000	833 587	57
Forensic (8.1.3)	Procurement	600 000	879 598 <sup>8</sup>	147

<sup>4</sup> The budget line for the commitment and payment appropriation is 24.0201. Some of the grant agreements have only been signed in 2013 following a Call for Proposals launched in December 2012..

<sup>5</sup> The figures are rounded

<sup>6</sup> Commitments cover the total costs in 2012 of legal obligations (contracts, grant agreements/decisions) entered into for operations extending over more than one year (Art. 7, FR). The total amount for the commitments cannot exceed the allocated budget.

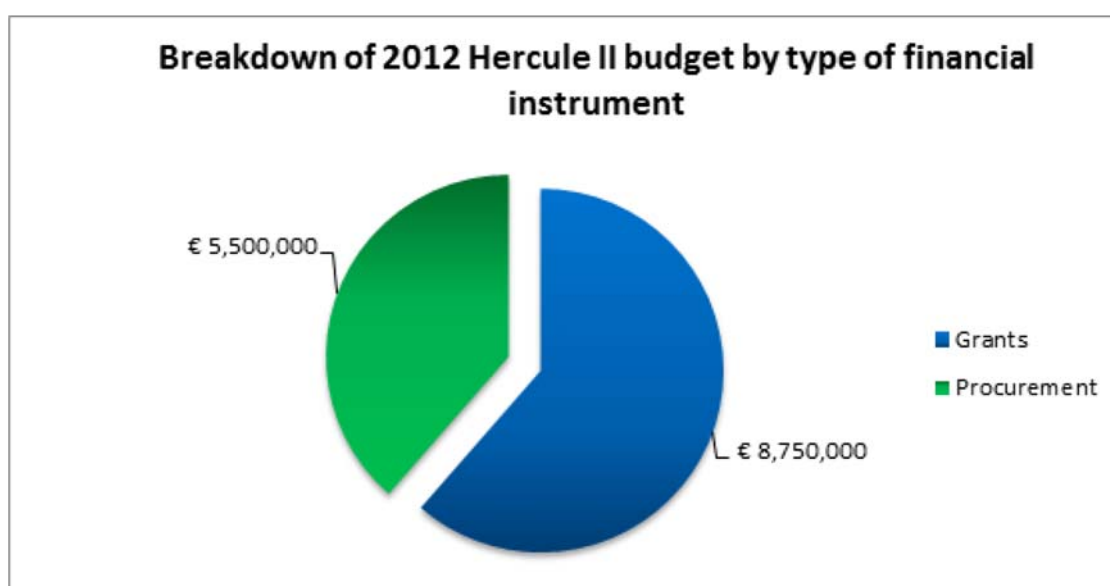
<sup>7</sup> This amount is slightly higher than the aggregated commitments reported in paragraph 3.1.1 due to an amendment to a grant agreement signed in 2010, but charged to the 2012 budget.

<sup>8</sup> Procurement costs higher than envisaged budget - in accordance with Art. 3 of the Commission Decision on the annual financing of the expenditure of the Hercule II programme C(2012)/1057: "Cumulated changes in allocations to specific actions not exceeding 20% of the maximum contribution authorised by this Decision are not considered to be substantial provided that they do not significantly affect the nature and objective of the work programme."

Scanners (8.1.4)	Procurement	200 000 <sup>9</sup>	0	0
<b>Subtotal Training</b>		<b>3 250 000</b>	<b>2 507 494</b>	<b>77</b>
<b>9. TRAINING – LEGAL PART</b>				
Legal (9)	Grants	<b>700 000</b>	<b>551 154</b>	<b>79</b>
<b>10. IT SUPPORT</b>				
IT Support (10.1.1)	Procurement	2 200 000	2 922 427 <sup>10</sup>	133
IT Data analysis (JRC) (10.1.2)	Procurement	500 000	240 000	48
Tobacco analysis (10.1.3)	Procurement	250 000	252 000	101
<b>Subtotal IT-support</b>		<b>2 950 000</b>	<b>3 574 427</b>	<b>116</b>
<b>TOTAL</b>		<b>14 250 000</b>	<b>13 054 802</b>	<b>92</b>
<b>TRANSFER 2011</b>		<b>840 000</b>		
<b>GRAND TOTAL</b>		<b>15 090 000</b>	<b>13 054 802</b>	<b>87</b>

The Hercule II budget for 2012 was implemented by making use of procurement and grants. The overall amount available for grants was EUR 8 750 000, in particular for technical assistance (sectors 7.1.1 and 7.1.2, maximum 50% co-financing); training (sector 8.1.1, maximum 80% co-financing) and the legal part of training (sector 9, maximum 90% co-financing). Procurement was used for the purchase of training and conferences (including computer forensics, sectors 8.12 and 8.1.3) and IT-support, for an overall amount of EUR 5 500 000, as shown in the graph below.

Graph 1: Hercule commitments 2012 by financial instrument.



Activities to support the **fight against smuggling and counterfeiting of cigarettes** are funded under Technical Assistance "Cigarettes" and "Analyses of tobacco samples", as well as under the Training Sector (Conferences and seminars for customs) and IT-support (Maintenance and update of a database with information on the chemical composition and origin of seized smuggled and counterfeited cigarettes).

<sup>9</sup> This amount was available for X-Ray Image Interpretation Training, but was transferred to cover the needs for computer forensics training

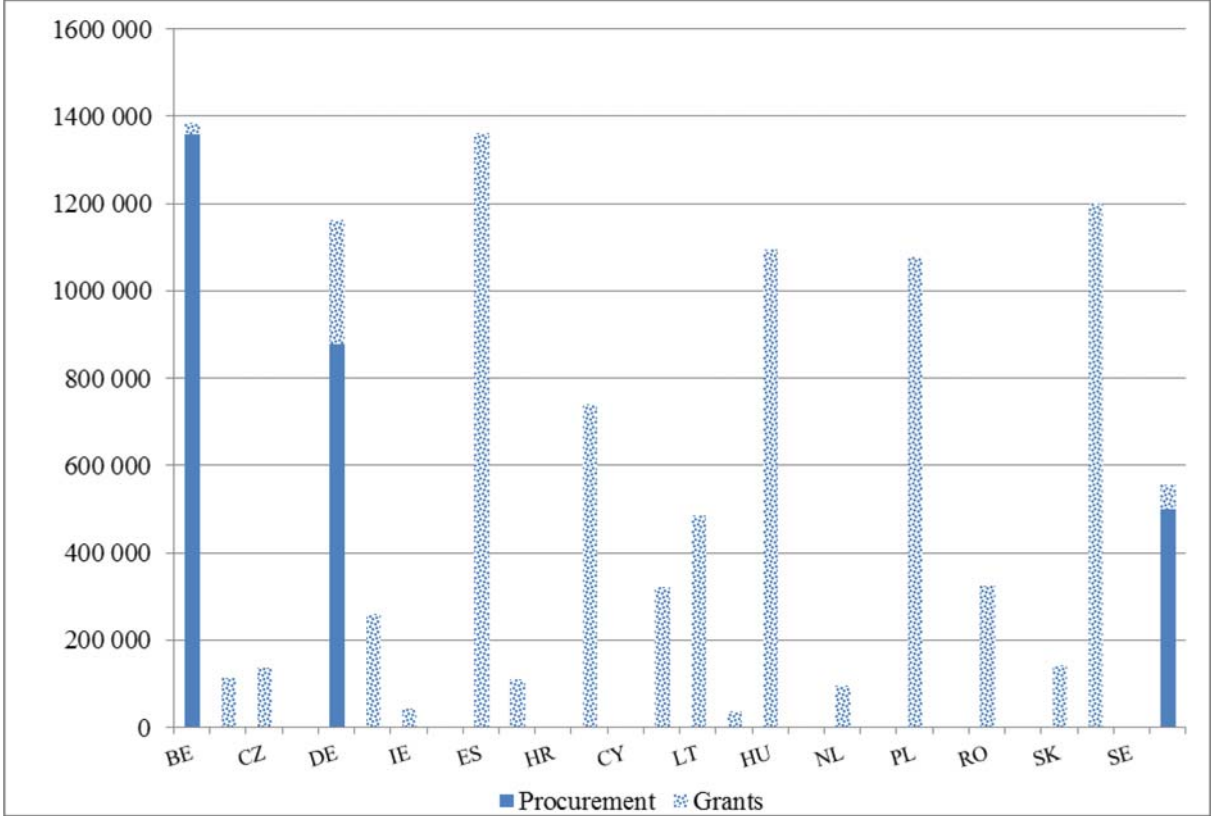
<sup>10</sup> The amount of EUR 840.000 was transferred from the 2011 IT support budget. See section 3.4.

Grants are awarded after the examination of applications submitted within the framework of a Call for Proposals. The technical specifications drawn up for each Call contain three sets of criteria to ensure that the Hercule II budget is spent in full compliance with the Financial Regulation and the Implementing Rules and to ensure that the "best value for money" is obtained for the actions to be funded under the grants. For technical assistance grants for example, applications are examined on the basis of their feasibility; transnational and multi-disciplinary scope; complementarity with other EU actions and geographical coverage of the activities. The applicants need to demonstrate how the action will contribute to strengthening the protection of the financial interests of the EU. Beneficiaries of grants have to report how the results of the action contributed to the protection of the EU's financial interests.

For Conferences and Training activities, the award criteria aim at allowing the selection of the actions that have a wide geographical scope, support implementation of the Commission's Anti-Fraud Strategy (CAFS) and that target relevant and important groups of professionals, such as lawyers or judges.

The programme has as one of its specific objectives the requirement to strike a geographical balance of the programme's activities. The graph gives an overview of the allocation of the Hercule II commitments in 2012 by Member State<sup>11</sup>:

Graph 2: Commitments for grants and procurement in 2012, by Member State



<sup>11</sup> The high proportion of commitments for Belgium is explained by the fact that most contractors for IT support and for organising conferences have established their legal seat in Belgium. Conferences for example are organised by a contractor located in Belgium. The commitments for conferences are thus recorded for Belgium, even if the conferences take place in another country, where most of the actual expenditure is incurred.

### 3. ACTIVITIES UNDER THE HERCULE-II FINANCING DECISION IN 2012

The Annual Work Programme is adopted as an annex to a Commission Decision ("Financing Decision") to implement the Hercule II Programme. In 2012, the Financing Decision was adopted on 21 February 2012<sup>12</sup>. The budget made available by the budget authority for 2012 was EUR 14 250 000<sup>13</sup>.

#### 3.1. Technical assistance for the fight against fraud

*3.1.1. Technical support for national authorities' use of special investigative tools and methods in the fight against fraud and corruption, and technical support to strengthen inspections of containers and trucks at the EU's external borders, including the fight against cigarette smuggling and counterfeiting (sector of activity 7.1.1 "Investigation Support")*

The aim of the financial support offered by Hercule II to national authorities is to enable staff working in technical/operational support units and/or investigative units to improve and strengthen their capacities in their fight against irregularities, fraud and corruption.

The support consists of:

- technical support for national authorities' use of special investigative tools and methods in the fight against fraud and corruption, and;
- technical support to strengthen inspections of containers and trucks at the EU's external borders, including the fight against cigarette smuggling and counterfeiting.
- the technical support should reinforce the Member States' capacities and logistics allocated to technical operational support units in the fight against fraud, in particular for actions setting up, improving or upgrading existing:
  - automated container-code recognition systems;
  - automated number-plate recognition systems;
  - technical equipment for electronic surveillance (cameras, computers, listening devices, radio surveillance electronic equipment, etc.);
  - technical equipment for mobile surveillance (tracking and tracing devices, audio and video transmission equipment, etc.);
  - technical equipment for the acquisition and analysis of digital evidence (computers, specialised software, etc.);
  - technical equipment for encrypted communications (computers, specialised software, etc.);
  - equipment and devices to detect smuggled and counterfeited goods on the basis of the scent characteristics of the smuggled and counterfeited goods (canine units).

<sup>12</sup> C(2012)1057 of 21 February 2012.

<sup>13</sup> Budget line 24.0201: operational programmes in the fight against fraud – Hercule II. See: OJ L 56 of 29 February 2012.

In 2012, the supported activities led to substantial qualitative improvements in existing technical systems used for investigative and operational activities by national and regional administrations. The purchase of new operational and investigative equipment was made possible through grants provided under the programme. The grants also covered specific technical training for staff to ensure optimal use, maintenance and management of the equipment.

Following the two Calls for Proposal published on the Commission's website, **27** applications were received from **14** Member States. The aggregated costs of the 27 applications amounted to EUR 10 183 052 and the Commission was asked to contribute EUR 4 648 356 (46%), where EUR 3 750 000 was available. The total amount committed under the Technical Assistance "Investigation Support" Call for 2012 is **EUR 3 731 536**. Only four applications could not receive a grant.

Grants awarded under the first Call (Deadline: 31 May 2012):

	<b>MS</b>	<b>BENEFICIARY</b>	<b>TOTAL COSTS IN EUR</b>	<b>TOTAL COMMITTED IN EUR</b>	<b>CO-FIN %</b>	<b>SUBJECT</b>
<b>1</b>	<b>LU</b>	Police Grand-Ducale	76 853	38 427	50.0	Procurement of technical tracking and observation equipment
<b>2</b>	<b>LT</b>	Special Investigation Service	445 617	220 605	49.5	Procurement of special equipment
<b>3</b>	<b>LV</b>	Corruption Prevention and Combating Bureau	232 556	116 069	49.9	Improving Surveillance Capabilities
<b>4</b>	<b>LT</b>	Financial Crime Investigation Service	202 678	75 192	37.1	Procurement of operational equipment
<b>5</b>	<b>ES</b>	Guardia Civil	499 625	211 548	42.3	Procurement of special investigation equipment
<b>6</b>	<b>FR</b>	Service Commun des Laboratoires des douanes	1 375 265	110 365	8.0	Fight against smuggling and counterfeiting of cigarettes
<b>7</b>	<b>NL</b>	Netherlands Policy Agency - KLPD	191 638	95 819	50.0	Purchase equipment for improving evidence gathering abilities
<b>8</b>	<b>RO</b>	National Anti-Corruption Directorate	90 641	45 320	50.0	Technical endowment of the national anti-corruption directorate
<b>9</b>	<b>PL</b>	Ministry of Finance - Treasure Intelligence Department	161 100	78 939	49.0	Purchase and modernization of technical equipment
<b>10</b>	<b>HU</b>	Special Service for National Security	685 823	342 000	49.9	Service Provider Capacity Building

<b>11</b>	<b>HU</b>	National Tax and Custom Administration Hungary	497 226	248 569	50.0	Strengthening external border section of Hungary
		<b>TOTAL 1<sup>st</sup> CALL</b>	<b>4 459 021</b>	<b>1 582 853</b>	<b>35.5</b>	

Grants awarded under the Second Call (Deadline: 13 September 2012):

	<b>MS</b>	<b>BENEFICIARY</b>	<b>TOTAL COSTS IN EUR</b>	<b>TOTAL COMMITTED IN EUR</b>	<b>CO-FIN %</b>	<b>SUBJECT</b>
<b>1</b>	<b>IT</b>	Guardia Di Finanza	456 096	228 048	50.0	Implementation of mobile forensic tools
<b>2</b>	<b>BE</b>	Service Public Fédéral Finances	53 890	26 916	49.9	Technical assistance for investigation support
<b>3</b>	<b>RO</b>	Anticorruption General Directorate AGD	231 823	115 500	49.8	Technical endowment
<b>4</b>	<b>LT</b>	Financial Crime Investigation Service - FCIS	33 270	16 500	49.6	Procurement of operational equipment
<b>5</b>	<b>CZ</b>	General Directorate of Customs	63 000	26 250	41.7	Procurement of audio tools for investigation
<b>6</b>	<b>EE</b>	Estonian Tax and Customs Board	175 547	87 636	49.9	Procurement of surveillance and tracking equipment
<b>7</b>	<b>PL</b>	National Police Headquarters	657 072	312 390	47.5	Procurement of computer forensic laboratory equipment
<b>8</b>	<b>DE</b>	BKA	183 054	91 527	50.0	Procurement of training and video and tracking surveillance equipment
<b>9</b>	<b>LV</b>	State Revenue Service of the Republic of Latvia	205 787	98 778	48.0	Purchase and installation of vehicle tracking system
<b>10</b>	<b>RO</b>	National Anticorruption Directorate	171 857	85 928	50.0	Technical support in fighting fraud and corruption
<b>11</b>	<b>HU</b>	Nemzeti Védelmi Szolgálat	42 945	19 368	45.1	Investigational capacity enhancement in the field of fight against corruption

12	PL	Central Anticorruption Bureau	117 854	47 481	40.3	Development technical security counter measures and purchase of digital radio communication equipment
<b>Partial 2<sup>nd</sup> Call</b>			<b>2 392 195</b>	<b>1 156 323</b>	<b>48.3</b>	

There were three applications submitted under the "Cigarettes" Call for Proposals that were considered to be more appropriate funding under the "Investigation Support" Call.

<b>Applications transferred from the CfP Hercule II - Cigarettes</b>						
	<b>MS</b>	<b>BENEFICIARY</b>	<b>TOTAL COSTS IN EUR</b>	<b>TOTAL COMMITTED IN EUR</b>	<b>CO-FIN %</b>	<b>SUBJECT</b>
13	ES	Guardia Civil	329 816	164 908	50.0	Purchase of technical and electronic devices
14	PL	National Police Headquarters	834 905	417 452	50.0	Purchase of electronic surveillance equipment and trainings
15	HU	SSNS - Special Service for National Security	823 433	410 000	49.8	Strengthening the service provider capacity of SSNS
<b>Total Transferred</b>			<b>1 988 154</b>	<b>992 360</b>	<b>49.9</b>	
<b>TOTAL 2<sup>nd</sup> CALL</b>			<b>4 380 350</b>	<b>2 148 683</b>	<b>49.1</b>	

### 3.1.2. *Technical support for detecting the presence of cigarettes and tobacco (sector of activity 7.1.2 "Cigarettes")*

This sector of activity specifically concerns the fight against cigarette smuggling, in particular the purchase of equipment for the detection of illicit consignments of tobacco products, such as X-ray scanners and other technical devices.

The budget allocated to this sector is EUR 3 300 000. Following the first Call for Proposals published on the Commission's website, **seven** applications were received from **five** Member States by the deadline of 31 August 2012. The aggregated costs of the seven applications amounted to EUR 3 568 686 and the Commission was asked to contribute EUR 1 782 626 (50%). Three applications were transferred to the second Call on Technical Assistance "Investigation Support".

Grants awarded under the first Call (Deadline: 31 August 2012):

	<b>MS</b>	<b>BENEFICIARY</b>	<b>TOTAL COSTS IN EUR</b>	<b>TOTAL COMMITTED IN EUR</b>	<b>CO-FIN %</b>	<b>SUBJECT</b>
1	ES	Departamento de Aduanas e Impuestos Especiales	1 210 000	586 061	48.4	Purchase of back mobile scanners
3	PL	Izba Celna Wolsztynie	162 932	81 466	50.0	Purchase of x-ray scanners and video cameras

<b>5</b>	<b>IE</b>	Revenue Commissioner	90 000	45 000	50.0	Procurement of x-ray scanners
<b>6</b>	<b>LV</b>	State Revenue Service	117 600	58 800	50.0	Technical support for the purchase of fuel unloading systems
<b>TOTAL 1<sup>st</sup> CALL</b>			<b>1 580 532</b>	<b>771 327</b>	<b>48.8</b>	

The Financing Decision only provided for the organization of one Call for Proposals for "Cigarettes" Technical Assistance. The relatively low number of applications led to a substantial non-take up of the budget but made it possible to organize a second Call for Proposals (deadline: 14 February 2013). The Commission received **18** applications from **13** Member States. The aggregated costs of the 18 applications amounted to EUR 7 343 576 and the Commission was asked to contribute EUR 3 824 096 (52%), where EUR 2.5 million was left to commit. Of all the applications, 11 could not receive a grant. The applications in the table below eventually were awarded a grant. For this second Cigarette Call there could be developments on the basis of the pending decision on some proposals that have been requested to submit further information.

Grants awarded under the second Call for Proposals (Deadline: 14 February 2013)

	<b>MS</b>	<b>BENEFICIARY</b>	<b>TOTAL COSTS IN EUR</b>	<b>TOTAL COMMITTED IN EUR</b>	<b>CO-FIN %</b>	<b>SUBJECT</b>
<b>1</b>	<b>ES</b>	Departamento de Aduanas e Impuestos Especiales	800 000	400 000	50.0	Purchase of night and day surveillance equipment
<b>2</b>	<b>EE</b>	Police and Border Guard Board - Central Criminal Police	350 000	174 000	49.7	Purchase of technical support for detection of cigarettes
<b>3</b>	<b>FI</b>	Finnish Customs	2 400 000	1 200 000	50.0	Purchase of technical equipment
<b>4</b>	<b>LT</b>	Lithuanian Customs	349 000	174 000	49.9	Strengthening of operational capacities
<b>5</b>	<b>PL</b>	Regional Police Headquarters in Lublin	97 810	48 905	50.0	Purchase of technical equipment for border control
<b>6</b>	<b>LV</b>	State Border Guard of Republic of Latvia (SBG)	35 151	17 576	50.0	Development of capacity of the dog handling service
<b>7</b>	<b>SK</b>	Financial Directorate of the Slovak Republic	150 568	63 085	49.8	Purchase of technical equipment for detecting presence of cigarettes and tobacco
<b>TOTAL 2<sup>nd</sup> CALL</b>			<b>4 182 529</b>	<b>2 077 566</b>	<b>49.7</b>	



### *3.1.3. Analysis of cigarette/tobacco samples (sector of activity 7.1.3)*

The total budget available in 2012 was EUR 300 000. Tobacco analyses, as in 2012, were made on the basis of a contract concluded under sector of activity 10.1.3 ("Cigarette Analysis") of the Financing Decision. There was subsequently no need for committing this budget.

## **3.2. Training, Seminars and Conferences**

### *3.2.1. Financial support (co-financing) for training and various cooperation measures in the area of the fight against fraud, including the fight against cigarette smuggling and counterfeiting (sector of activity 8.1.1)*

The overall goal of this part of the Hercule II Programme, which focuses on training in the fight against fraud, is to make financial support available for preventive and/or operational activities that contribute to fighting fraud and corruption detrimental to the financial interests of the European Union, for example:

- by encouraging exchanges of experience;
- by spreading general and operational information;
- by promoting OLAF and its working practices in order to improve cooperation by creating a better understanding of national and EU mechanisms and their interrelationships.

The results achieved in this area include:

- specific knowledge obtained in fraud prevention and the combating of fraud;
- specific skills for fraud prevention, detection and investigation capacity in fighting fraud;
- input for further developing and improving organisational aspects, including legislative work;
- dissemination of the latest developments, methods and techniques in combating fraud and corruption; and
- the creation of networks between organisations and exchange of the latest information.

The training is also intended to help Member States ensuring that officials responsible for decisions on and control of the spending of EU funds in their Member State have an appropriate knowledge of the relevant elements concerning the protection of the EU's financial interests. Training also allows the spreading of best practice and networking between Member State services with similar responsibilities or shared responsibilities where cross-border issues arise.

This is in line with the objectives of the Commission's Anti-Fraud Strategy (CAFS), which the Commission adopted earlier in 2011<sup>14</sup>.

Following the two Calls for Proposal published in 2012, the Commission received **33** applications from **14** Member States. The aggregated costs of the 33 applications amounted to EUR 3 836 547, and the Commission was asked to contribute EUR 3 006 625 (80%), where EUR 1 million was available. The Commission did not provide a grant to 18 applications.

The total amount committed under the Training Call for 2012 is **EUR 794 309**. The applications in the table below eventually were awarded a grant.

Grants awarded under both Calls for Proposals:

	MS	BENEFICIARY	TOTAL COSTS IN EUR	TOTAL COMMITTED IN EUR	CO-FIN %	PROJECT TITLE
1	CZ	General Directorate of Customs	59 782	47 825	80.0	Enhancing the efficiency of inspection activities of mobile groups in cooperation with the investigation units in the area of prevention of tobacco and tobacco product smuggling
2	SK	Financial Directorate of the Slovak Republic	36 263	29 010	80.0	Training focused on the detection of smuggled and counterfeit tobacco products in a rail and shipping transport
3	RO	DNA - National Anticorruption Directorate	32 648	26 118	80.0	Special investigation techniques used in fighting corruption and fraud detrimental to the financial interests of the European Union
4	HU	National Tax and Customs Administration	95 792	76 633	80.0	Possibilities for improving international criminal co-operation against crimes threatening economic and financial security of the European Union
5	CZ	Transparency International Czech Republic	89 809	62 866	70.0	EU funds watch
6	RO	Anticorruption General Directorate	62 590	50 000	79.9	Strengthening regional cooperation for preventing and countering corruption at the EU external border

<sup>14</sup> COM (2011)376 of 24 June 2011.

7	IT	Istituto Europeo per lo Sviluppo Socio Economico	92 020	73 616	80.0	EU Funded Projects: law and administrative practices in the field of fraud prevention
8	PL	Provincial Police Headquarters in Olsztyn	46 081	36 865	80.0	Legal and practical aspects of crime to the detriment of the European Union's financial interests
9	IT	Regione Toscana	50 793	40 634	80.0	Governance of the control system to promote the fight against fraud affecting the European Union Structural Fund
10	IT	Customs Agency	193 912	155.129	80.0	Illicit trafficking of cigarettes in the Western Balkans Region, Turkey and Italy
11	LV	State Revenue Service of the Republic of Latvia	40 793	31 110	76.3	Detector dogs' instructor course
12	SK	Financial Directorate of the Slovak Republic	63 034	50 427	80.0	Training of customs officers in the area of customs service cynology in fight against tobacco products smuggling and counterfeiting
13	BG	National Customs Agency	45 738	36 591	80.0	Increasing the capacity of Bulgarian customs to combat trafficking of illicit tobacco products
14	IT	Ministry of Agriculture, Food and Forestry	34 886	27 909	80.0	Irregularities prevention and management in the framework of EU funds
15	BG	National Police Chief Directorate at the Ministry of Interior	61 969	49 575	80.0	Prevention and detection of crimes related to distribution of tobacco products without excise labels, with fake excise labels and/or falsified trademark
<b>TOTAL</b>			<b>1 006 109</b>	<b>794 309</b>	<b>79.0</b>	

3.2.2. *Organisation of training and various cooperation measures in the area of the fight against fraud, including the fight against cigarette smuggling and counterfeiting (sector of activity: 8.1.2)*

The training and other measures financed under this heading covers the protection of the EU's financial interests in a wider sense. In 2012, the Commission used the services of a firm specialised in organising events – MCI Benelux S.A. under a framework contract for the

organisation of its conferences. In some cases, the Commission's interpretation service (SCIC) organised the conference funded under this sector of activity. The overall budget for conferences under procurement is EUR 1 450 000

The total amount committed in 2012 was EUR 833 587. This relates to six events (numbered 4 to 9 in the table below) for which the **preparation** started in 2012, but which took place in 2012 as well as in 2013. The table also gives an overview on the Conferences that took place in 2012 (numbered 1 to 3), for which the **preparation** started in 2011 and which were **committed** under the 2011 Financing Decision.

The amounts in the table below are not the committed amounts, but they refer to the **incurred costs**, i.e.: the amounts eventually paid by the Commission, and are lower than the amounts committed for these events.

The following conferences were organised by OLAF in the course of 2012:

N°	DATES (2012)	TITLE CONFERENCE	LOCATION - COUNTRY	PARTICIPANTS	AMOUNT PAID in EUR
1	25-27 April	<b>OLAF/ASEAN/MS Conference on Customs antifraud cooperation</b>	Bangkok, Thailand	92 (20 MS, 9 OLAF, 65 ASIA)	(146 504)
<u>Objectives:</u> The main purpose of the conference was to focus on cooperation with OLAF's operational partners in the ASEAN countries in identifying, investigating and preventing commercial customs fraud. It was also to review the current methods of cooperation between OLAF and its partners in ASEAN countries and seeking to develop further the initiative agreed at the Member States conference in Stockholm to adopt a more inclusive and analysis-based approach to the investigation of cases of commercial customs fraud (so called "Stockholm approach").					
2	22-23 February	<b>Debriefing phase of the operation BARREL</b>	Sopot, Poland	47	(55 243)
<u>Objectives:</u> The participants of the conference discussed the results of the Joint Customs Operation BARREL. The participants agreed on the recommendations formulated in a final report on the basis of the developments during the JCO as well as its outcome.					
3	29 March – 4 April	<b>Fifth session of the Intergovernmental Negotiating Body on Illicit Trade in Tobacco Products (INB5)</b>	Geneva, Switzerland	562	(655 559)
<u>Objectives:</u> The aims and objectives of this meeting were to negotiate the text for a Protocol on the elimination of the illicit trade in tobacco products which would be agreed and sent to the Framework Convention on Tobacco Control [FCTC] Conference of the Parties [COP] meeting in Seoul, Korea in November, 2012. All the objectives were achieved.					
4	16-19 October	<b>Targeted Regional Baltic Meeting in the context of the Eastern Border Anti-Smuggling Action Plan</b>	Warsaw, Poland	75	64 815

Objectives: The overall aim of this conference was to exchange information about recent developments and trends in the area of cigarette smuggling on the Eastern Border of the EU, along with discussing enforcement measures in order to improve effectiveness and co-operation in this field.

<b>5</b>	12-14 September	<b>12th Conference of International Investigators</b>	Luxembourg, Luxembourg	140	16 307
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Objectives: The principal objectives were fivefold:

- (1) To enhance collaboration and co-operation between investigation offices in international institutions;
- (2) to develop best practice in the conduct of investigations;
- (3) to develop mechanisms for the exchange of, operational information;
- (4) to familiarise participants with latest developments in relevant fields such as forensic analysis;
- (5) to develop mutual trust and confidence between investigation offices with similar mandates and in particular those handling EU funds.

<b>6</b>	27-29 June	<b>AFCOS Conference</b>	Dubrovnik, Croatia	74	98 209
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Objectives:

- (1) To bring together AFCOS representatives from the Member States, Acceding States, Candidate Countries and potential Candidate Countries;
- (2) to present the work of OLAF and AFCOS and their cooperation;
- (3) to discuss challenges relevant to mutual cooperation;
- (4) to share experience and best practices.

<b>7</b>	24-27 September	<b>17th Annual Task Group Cigarettes</b>	Vilnius, Lithuania	86	74 012
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Objectives: Examining the answers given by Member States to questions about new enforcement measures and special techniques in the fight against cigarettes smuggling and counterfeiting. The following tools were identified and discussed:

- Importance of the risk analysis.
- Use of X-Ray scanners, specially the mobile ones.
- Use of canine teams (sniffer dogs)
- The use of tracking devices together with controlled deliveries.
- The strengthen cooperation with all the neighbours countries, especially those in the Eastern Border.
- Special attention should be paid to the internal movements with excise/VAT fraud

<p>and to the postal smuggling.</p> <ul style="list-style-type: none"> <li>• Big importance of real-time and extensive information exchange.</li> </ul>					
<b>8</b>	7-9 November	<b>10th OLAF Conference of Fraud Prosecutors The cooperation of National Prosecutors with a European Public Prosecutor's Office</b>	Berlin, Germany	141	148 541
<p><b>Objectives:</b> Open a debate among the judicial authorities of the Member States on the possible shape and powers of the European Public Prosecutor's Office (EPPO). The Commission plans to adopt a legislative proposal on the establishment of the EPPO in 2013 and the purpose of the conference was to discuss about it not at academic level, but by hearing the practitioners' point of view.</p>					
<b>9</b>	22-24 April 2013	<b>12th OAFCN training seminar</b>	Rome, Italy	N/A	245 143 still pending
<p><b>Objectives:</b> The main purpose of the OLAF Anti-Fraud Communicator's Network (OAFCN) is to prevent fraud through a 'free-flow' of information ('prevention is better than cure'). The seminar, entitled "Combatting fraud by educating with new communication tools", will focus on the use of new communication tools and strategies, including social media, to target antifraud messages at different audiences (with an emphasis on young people, i.e. future taxpayers.)</p>					

### 3.2.3. Organisation of Computer Forensics Training (sector of activity: 8.1.3)

In 2012, the German Bundeskriminalamt (BKA) organised two training sessions in Computer Forensics training. The training sessions were organised under a service contract concluded under a negotiated procedure between the Commission and the BKA. The target audience of the training consisted of staff employed by national or regional administrations of the Member States, EFTA/EEA countries and candidate countries which promote the strengthening of EU action to protect the EU's financial interests. A large number of the participants worked for customs or police forces.

Overview of the two computer forensic training sessions organised in 2012:

	<b>DATES</b>	<b>LOCATION</b>	<b>COURSE</b>	<b>PARTICIPANTS</b>	<b>TRAINERS</b>	<b>COMMITTED</b>
<b>1</b>	Sep/Oct-2012	Budenheim, Germany	5	140	25	429 998
<b>2</b>	Feb.	Wiesbaden,	12	180	17	449 600

	2013	Germany				
		<b>TOTAL</b>				<b>879 598</b>

The training consisted of courses given to both beginners and advanced students for improving their skills and competences in the use of tools and software used during forensic examinations of computers tablets or mobile phones. The course included tools used to collect evidence from devices running under different operating systems. The courses, the trainers and the overall quality of the training complied with the quality standards set by an international organisation of computer forensic experts. At the end of the training sessions, the participants had to pass an exam to assess the newly acquired skills and competences. All participants succeeded in passing these tests.

The training sessions also gave the opportunity to the participants to network and to exchange information and best practices in relation to computer forensic examinations.

The overall commitment for the two sessions amounted to EUR 879 598 which included the costs of training and the accommodation and travel costs for the participants.

#### 3.2.4. *Organisation of technical training courses on image interpretation for scanning operators (sector of activity 8.1.4)*

Specific technical training courses on image interpretation for scanning operators were not organised in 2012. These technical courses are provided by the suppliers of X-Ray scanners to the beneficiaries of technical assistance grants awarded under the sectors 7.1.1 and 7.1.2 of the Financing Decision.

### **3.3. Training, Seminars and Conferences – Legal part**

The legal part of the training, conferences and seminars sector aims to further develop the specific legal and judicial aspects of the protection of EU's financial interests against fraud, by promoting in particular comparative law analyses (sector of activity: 9).

The following activities are eligible under this sector of activity:

- organisation of seminars and conferences;
- studies in comparative law;
- dissemination, including publication of scientific knowledge concerning the protection of the EU's financial interests;
- publication and distribution of a scientific periodical on the protection of the EU's financial interests;
- organisation of the annual meeting of the Presidents of the Associations for European Criminal Law and for the protection of EU's Financial Interests.

The results expected in this area are:

- organisation of seminars and conferences on the priority topics identified in the 2012 Financing Decision;

- production of studies that help the Commission (OLAF) identify measures to protect the EU's financial interests;
- production of scientific studies that can serve to stimulate debate on one of the priority topics;
- translation of texts and documents that are relevant or of interest for the protection of the EU's financial interests;
- promotion of the dissemination of scientific knowledge relating to the protection of the EU's financial interests and the results of the measures referred to above;
- publication of a periodical on the protection of the EU's financial interests;
- organisation of an annual meeting of the chairpersons of the Associations for European Criminal Law and for the protection of EU's Financial Interest.

Following the two Calls for Proposal published, **33** applications were received from **11** Member States. The aggregated costs of the 33 applications amounted to EUR 2 997 508 and the Commission was asked to contribute EUR 2 628 312 (88%), where EUR 700 000 was available. In 2012 the total amount committed was EUR 557 297. The Commission decided to award a grant to nine applications, where 24 applications were rejected. The applicants could receive a grant covering up to 90% of the eligible costs of the action.

Grants awarded under the Calls in 2012 (Deadlines: 31 May 2012 and 31 October 2012):

	<b>MS</b>	<b>NAME ORGANISATION</b>	<b>TOTAL COSTS IN EUR</b>	<b>GRANT AWARDED IN EUR</b>	<b>CO-FIN %</b>	<b>PROJECT TITLE</b>
<b>1</b>	<b>PL</b>	ELRA	61 499	55 303	90.0	Conference: Evidence in EU fraud cases
<b>2</b>	<b>DE</b>	ERA	76 776	68 776	89.6	Conference: Towards the European Public Prosecutor Office (EPPO) : institutional and practical aspects
<b>3</b>	<b>UK</b>	University of Birmingham	67 017	56 300	84.0	Conference: The Challenges of Trans-national Investigation
<b>4</b>	<b>IT</b>	Centro Studi di Diritto Penale Europeo - Como	50 000	45 000	90.0	Conference: Creation of the European Prosecutor and the European Criminal Law Protection of the Financial Interests of the European Union
<b>5</b>	<b>DE</b>	Max Planck Institute	77 338	59 999	77.6	Periodical publication: eucrim: The European Criminal Law Associations' Forum



6	IT	Fondazione Lelio e Lisli Basso - ISSOCO	87 044	78 124	89.7	Conference: Protecting Fundamental and Procedural Rights: From OLAF's Investigation to the European Public Prosecutor's Office (EPPO)
7	IT	Centro di Diritto Penale Europeo - Catania	107 220	93 800	87.5	Conference: The challenge of setting a European Public Prosecutor's Office: definition of common rules and their impact on internal legal systems
8	DE	ERA	72 875	64 795	89.5	Annual meeting Presidents + Conference: Making the fight against corruption in the EU more effective: towards the development of new evaluation mechanisms
9	BG	Center for the Study of Democracy	43 360	29 057	67.0	Conference: EU's financial interests under threat: new approaches in assessing the risks from fraud and corruption
		<b>TOTAL</b>	<b>643 129</b>	<b>551 154</b>	<b>85.7</b>	

In 2012, 8 conferences took place. Of those, seven were funded by the second Legal Training call of 2011 and one by the first Call of 2012. More than 1050 persons participated in the conferences.

The publication of the eucrim periodical (4 issues in 2012) was also funded under this sector of activity. The comparative law study "EU model rules of criminal investigation and prosecution for the procedure of the proposed European Public Prosecutor's Office" was finalized by the end of 2012. This study was funded under a grant signed in 2010.

### 3.4. IT support

#### 3.4.1. Ensure MS' access to strategic information in support of investigations

The Hercule II programme provides funds to procure (access to) databases for customs and fraud investigation organisations in the Member States. The database access is needed to support their investigations. Access to databases is procured and managed by the Commission and allows for substantial economies of scale (sector of activity: 10.1.1).

Access to these databases is provided to the Member States through the secure AFIS network, which is managed by OLAF. OLAF staff also use these databases for their investigations.

During 2012, access to the following databases was contracted under the Hercule II budget:

	NAME	CONTENT	TOTAL PRICE IN
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1	SEASEARCHER	Information on vessels and vessel movements	249 480
2	NTELX	Information on ship manifests	2 040 000
3	CTI	Detailed shipments of Chinese imports and exports	11 217
4	TIPS	Detailed shipment records of Indian imports and exports	1 430
5	GRS	GRS contains basic company information from all over the world and gives information on links between companies	525 300
6	DBAI	Financial details of companies all over the world	106 500*
7	GTA	International trade statistics	95 000
<b>COMMITTED UNDER 2012 BUDGET</b>			<b>2 922 427</b>

*\*DBAI subscription for 2012 was committed and paid under the 2010 Hercule II budget and is not included in the total*

The amount of EUR 840.000 had been committed from the 2011 Budget, therefore rising the amount available for the procurement of databases from EUR 2 200 000 to EUR 3 040 000.

#### 3.4.2. Develop specific IT tools for data analysis

In 2012, Hercule II support was given to two projects carried out by the Joint Research Centre (JRC): Automated Monitoring Tool (AMT) and Container Traffic (CONTRAFFIC). These two projects provide the appropriate tools in order to support investigations that need data and analyses on container movements (current and past), providing more realistic and effective scenarios for joint customs operations (sector of activity: 10.1.2).

AMT has the following operational objectives:

- to increase OLAF's operational antifraud efforts by providing automated analysis of trade flow data at EU level;
- to further develop a tool to be used to detect signals in customs declaration data provided by Member States, with prioritisation of the signals detected in customs declarations; and
- to continue developing the ground-breaking software so that its deployment can be widened.

CONTRAFFIC aims to develop and test an advanced risk-analysis system in the maritime transport domain capable of automatically checking the origin of the merchandise declared by importers, in order to detect potential fraudulent cases of the type "false declaration of origin".

In 2011, an administrative arrangement was concluded for a period of two years between the Commission and the JRC for the AMT project. The overall costs for the project amount to EUR 400 000 and the project will be extended under the 2013 Financing Decision. .

The administrative arrangement For the CONTRAFFIC project was concluded in 2010 and renewed in 2012 for an amount of EUR 240 000. An extension of the project is expected in 2013.

### 3.4.3. *Tobacco analysis*

In 2012, the Commission concluded a new specific agreement under an existing framework contract with the Scottish Oceans Institute (SOI Ltd) for the establishment and maintenance of a database containing information on the specific characteristics of tobacco products and the analysis of samples of tobacco.

For this purpose, SOI makes analysis of samples of seized cigarettes which allows the determination of the brand and the manufacturing plant. This information provides an important input to investigations into cigarettes smuggling and counterfeiting.

SOI maintained the database by entering the results of the analyses and provides the Commission with quarterly reports on the results (sector of activity: 10.1.3).

The total amount committed in 2012 was EUR 252 000.

## **4. MULTI-ANNUAL IMPACT**

As Hercule II actions are multi-annual, most of the final reports on actions funded under the 2012 budget have not yet been received. For this section of the overview the Commission assessed the impact of previous years' actions finalised during 2012 (final technical and financial reports received in 2012). The Decision establishing the Hercule II Programme has five specific objectives as set out in section 1.1. For each of these objectives, the overview below provides a summary of the main results achieved in 2012.

### **4.1. To enhance transnational and multidisciplinary cooperation**

The specialised antifraud trainings granted under Chapter 8.1.1 (Training) ensured a far-reaching antifraud and anti-corruption campaign across the EU and allowed a wide dissemination of antifraud measures affecting the EU's financial interests.

The themes of these training seminars covered a wide range of disciplines – from fraud prevention and detection, the fight against irregularities and the strengthening of regional cooperation for preventing corruption at the EU external border, to combating the counterfeiting of cigarettes and tobacco and focus on laws and practices to prevent fraud with EU funds.

The main results of these actions are:

- Better understanding of *modi operandi* and knowledge obtained in the field of preventing and combating fraud detrimental to the EU's financial interests;
- specific skills in prevention, detection and investigation in the fight against fraud;
- input for further development and improvement of the activities of national organisations, including legislative work;

- dissemination of information about the latest developments, methods, techniques in the field of the fight against fraud and corruption; and
- information obtained through networks established between organisations.

Examples of actions financed under Hercule II – Training Part which took place in 2012:

Project organised by **HRMC - Her Majesty's Revenue and Customs, United Kingdom** with as title "**Project Hiliana**" which concerned the deployment of UK customs officers to the border force of the Bulgarian customs.

The aim of the action was to share information and intelligence, build relationships and working practices and assist the customs from the United Kingdom, Bulgaria and Greece in the targeting of counterfeited cigarette in containers bound for EU ports.

Two weeks training organised by **Customs Directorate of the Slovak Republic**, with as title: "**Training customs officers in the area of fight against corruption and fraud, particularly against tobacco products smuggling and counterfeiting**" for customs officers

The training focused on deepening the qualifications and improving the skills of customs officers in the fight against corruption and fraud, especially against illegal importation and production of tobacco products

A series of training activities organised by **DLAF - Fight Against Fraud Department, Romania**, in Bucharest (RO) and Zagreb (HR) with as title: "**Fight against frauds affecting EU's budget - Sharing the Romanian experience with the Croatian authorities**" with participants belonging to judicial and law enforcement organisations from Romania and Croatia.

The aim of the project was to inform Croatian officials about the experience of the Romanian AFCOS (Anti-Fraud Coordination Service and national contact point with OLAF) following accession to the EU. The action dealt with the protection of EU's financial interests under the European enlargement policy, reporting of irregularities to OLAF and recovery and follow-up on fraud related cases.

A three-day conference organised by '**Der Generalstaatsanwalt**' in Munich, with as title: "**Protection of the EU's financial interests through fighting fraud in Europe**" with participants from twelve countries (Austria, Bulgaria, Czech Republic, Germany, Hungary, Italy, Poland, United Kingdom, Croatia, Liechtenstein, Switzerland, Russian Federation).

Presentations were given on the different perspectives and angles relevant for the fight against fraud such as presentations on legislation, case-law, criminal prosecution practice and cooperation with OLAF. The emphasis was put on comparing and sharing best practices. Practical reports from the Member States on fighting fraud, and in particular its harmful effect on the EU's financial interests, were presented.

The **Computer Forensics Training** organised by the **Bundeskriminalamt** in Germany facilitated the further enlargement of a network of forensic specialists all over Europe. This network allows its members to share information on best practices in computer forensics and can be called upon in case of need.

#### 4.2. To build networks throughout the MS, acceding countries and candidate countries

Under the legal sector of Hercule II, financial support has been granted to academic projects such as legal studies, legal conferences and publications dealing with particular issues related to the protection of the EU's financial interests. The nine actions co-financed in 2012 had a wide international dimension. The audiences were mainly judges, prosecutors, lawyers, investigators, police officers, academics, researchers, national civil servants, and members and officials of the EU institutions. These events promoted the dissemination of legal information on the latest developments in the area of fraud prevention and the fight against fraud, and constituted a good forum for discussion of future legislative solutions in the field of the protection of the EU financial interests.

The annual meetings of the Presidents of the Associations for European Criminal Law and for the Protection of EU's Financial Interests offered a valuable opportunity to enhance and expand the existing network and to initiate exchanges of views between professionals and to develop ideas for future legal projects.

Examples of actions financed under Hercule II – Legal Part which took place in 2012 (granted under the 2011 budget):

*"eucrim" – The European Criminal Law Associations' Forum: publication of 4 issues in 2012 by the Max Planck Institute, Germany.*

Issue: 1/2012 Focus: Corruption and Fraud

Issue: 2/2012 Focus: European Public Prosecutor

Issue: 3/2012. Focus: Liability of Legal Persons

Issue 4/2012 Focus: Organised Crime

The issues address current developments in the protection of the EU's financial interests and the activities of OLAF, the on-going discussion on the EPPO as well as the latest developments in relation to the reform of the EU's anti-corruption mechanism.

These **issues** are published in English. Each news item was supplemented by internet links containing the source(s) of information (legislation, judgments, etc.) in English, French, and German (where available).

eucrim is **disseminated** in three ways:

- email (1585 subscribers in 2012),
- website (all issues are stored on the eucrim website and can be downloaded free of charge), and

- publication (2000 of each edition were printed and distributed to individuals, universities, law libraries, EU institutions, national law enforcement agencies, courts, etc.

**Conference on “Circulation and smuggling of counterfeit products: protection of EU financial interests and of consumers in the internal market” 31 May 2012, Milano, Italy.**

The conference organized by the Centro Studi di Diritto Penale Europeo examined the effectiveness of the instruments of criminal law protection adopted by member countries for the protection of the financial interests of the Union.

The issues of combating counterfeiting and smuggling have been also addressed as they represent the most serious and current damages to the financial interests of the European Union. Furthermore, a comparative analysis of the subject was carried out with France, Spain and the UK. Moreover, a specific section has been dedicated to investigative and judicial cooperation instruments against counterfeiting, as well as the seizure and confiscation of the counterfeit goods.

In conclusion of the event, the Center printed a publication containing the contribution to the conference by all speakers.

### **Comparative Law Study and final conference on "EU Model Rules for the procedure of the proposed European Public Prosecutor's Office" 2010-2012 Luxembourg.**

The University of Luxembourg directed a group of European criminal law experts working on elaborating European Model Rules of investigation and prosecution. This study was built upon a previous project "Criminal investigation and prosecution of crimes affecting the financial interests of the Union – the Member States dimension", both cofounded by the European Commission (OLAF) under the Hercule II Programme.

The results of that project served as basis for the discussion on investigative and prosecutorial measures. The experts met for three workshops and finalized the discussions in a comparative analysis, which have been published.

On 14-15 June 2012 a conference took place in Luxembourg to present the Model Rules as well as the methodology of the study and the results of the comparative analysis to 150 experts with different backgrounds. The conference was open to national and EU policy makers, European and Luxembourgish practitioners, academics from various European universities as well as the general public. The conference gave them an opportunity to comment on the study and on the Model Rules and gave the authors a possibility to receive feedback. Moreover the final conference allowed not only a general debate on aspects of comparative criminal procedure, but also raised the attention of policy makers and practitioners on the options of further integration of criminal justice in the EU and its alternatives. The report and the conference proceedings can be retrieved from the following internet website: <http://www.eppo-project.eu/>.

#### **4.3. To provide technical and operational support for MS' law enforcement agencies**

The programme's co-financing of the purchase of technical equipment for law enforcement agencies engaged in combating fraud is aimed mainly at:

- ensuring better technical equipment across the EU and increasing compatibility to facilitate cross-border cooperation and achieve procurement savings;
- efficient use of the equipment acquired;
- facilitating joint operations and international support for operations;
- better disclosure of offences and higher quality evidence for the courts.

In 2012, the Commission received reports on the implementation of grants awarded in previous years. These reports provided quantitative and qualitative information on the number of investigations, arrests, seizures of illicit and smuggled goods as well as convictions that were made possible with equipment funded under the programme. A systematic overview cannot be given due to the fact that the information needed by Member States on specific investigations and operations cannot be disclosed. Moreover, it is often not possible or difficult to establish a direct causal relationship between the grant and the results achieved with the equipment purchased by the grant. It can be easily assumed however that, without the financial support, a substantially lower number of arrests, seizures and convictions would

have been made and that the efficiency and effectiveness of staff using the equipment would not be as high as is the case nowadays.

Examples of highly sophisticated and transnational compatible technical equipment purchased under the 2011 budget and reported in 2012:

The grant was awarded to a **Lithuanian law enforcement agency** for the purchase of technical equipment (upgraded software and hardware for computer forensic investigation and forensic duplicator).

The procured tools were used in several operations to investigate illicit activities by legal entities, fraudulent management of accounts, documents forgeries and illicit or irregular use of financial EU support provided under the CAP or the structural/cohesion and TEN funds. The equipment is used in almost all on-going pre-trial investigations and undercover operations in Lithuania. The software and hardware for digital forensic examinations was successfully used investigations, which led to the identification of 38 suspects and a suspected financial impact estimated at EUR 19.6 million.

A grant awarded to a **Spanish law enforcement agency** enabled this agency the purchase special devices to track, monitor and detect vehicles and individuals suspected of involvement in cigarette smuggling (cameras and transmission devices).

The equipment was used in operations dedicated to the fight of smuggling of cigarettes via containers delivered in Spain and Portugal. In addition the equipment was used in a case regarding imports of hydrocarbons and petrol in the EU that saw the arrest of 31 people and whose impact is estimated at EUR 60 million. Surveillance equipment was used in a case concerning fraud to obtain refunds of VAT via a virtual trade of olive oil for which 14 people were arrested and the financial impact is estimated to be EUR 5 million. The equipment was also successfully used in an operation concerning counterfeiting of Euro notes and coins by a transnational criminal organization, that lead to the arrest of nine persons and its financial impact is estimated at EUR 240 050.

**Estonia, Latvia and Lithuania** were able to complete the interfacing project of their respective vehicle tracking systems also thanks to the financial support (EUR 100 030) provided by the Hercule II Programme.

The linking of the systems of the three states allows mutual visibility for the numbers of the means of transport registered in the three countries. In addition alert messages would be transferred from one system to another and therefore be accessible at all the borders of the three Baltic States. The objective of this project was enhancement of the customs control efficiency. Improvement of the fight against illicit trafficking of goods, in particular tobacco products, and strengthening of cooperation in collection of excise duties. As it is an on-going project, tangible results will be available in the future.

The added value of the linking of the system is the possibility of extending it to other Member States using it therefore creating a wide network of exchange of information and active collaboration in the fight against counterfeiting and smuggling of cigarettes and



tobacco.

The grant awarded for the purchase of technical equipment for investigators within a **Finnish law enforcement agency** proved very efficient and useful for its end users. The aggregated financial impact of one of the operations investigating corruption and bribery in a big municipality, amounts to almost EUR 200 000 and will bring to court up to ten suspects. The equipment was also used in collaboration with the Finnish national custom authority, which was then able to make a major case against cigarettes smugglers. The equipment allowed the authorities to seize at least 4 million cigarettes for a financial impact of approximately EUR 900 000. As clearly mentioned by the beneficiary, these investigations could not have taken place in the same successful way without Hercule support that enabled the purchase of the technical equipment.

A **Romanian law enforcement agency** received a grant for the purchase of technical equipment for investigators. The aggregated financial impact of the operations, in which Hercule funded equipment was used, amounts to almost EUR 300 000. One operation related to an investigation involving 14 members of the staff of a public authority who were suspected of falsifying documents in order to obtain European Funds. The value of the suspected fraud amounts to EUR 3 million. The second operation related to the abuse of an amount of EUR 5 million of EU funds given to build the first section of a motorway.

The investigations could not have taken place in the same successful way without Hercule support that enabled the purchase of the technical equipment.

Access procured by the Commission to external databases provides essential operational information to investigators in both Member States and OLAF. This includes data necessary for protecting the revenue side of the budget, relating to trade flows and shipping and container movements. Data relating to company information is also essential for investigations and analysis relating to the expenditure side of the budget.

The databases containing information on trade flows from China (**CTI**) has been very helpful in several on-going investigations OLAF carried out in support of operational customs investigations of the Member States that may eventually lead to the recovery of evaded anti-dumping and customs duties. Its usage led, for example, to the identification of shipments of counterfeited goods, the arrest of the responsible persons and the shutdown of two illegal production sites. The results given below are made anonymous because the investigations are on-going.

The vast majority of customs trade fraud cases result from the trafficking of Chinese products, it is imminently sensible to gather intelligence from reliable data sources such as the Chinese database. The database continues to be a very useful source of data for our investigations.

- Industrial product Nr 1: transshipment from China to Italy via Switzerland.
- Results in the Chinese database were used for the assessment of the case. Outcome: +/- EUR1 million of Anti-Dumping Duties (ADD) to be recovered; criminal investigations in Italy.
- Industrial product Nr 2: actual recoveries reported by Portugal last year.
- Industrial product Nr 3: trans-shipped via Taiwan; duties established more than EUR4.3 million.
- Industrial product Nr 4 from China: EUR0.5 million recovered.

#### Industrial counterfeit product

The work and searches have been instrumental to the success of cases: two separate searches revealed imports of the said product from a Chinese supplier of counterfeit goods, two Mutual Assistance requests were transmitted to Member States resulting in the seizure of 2 600 pieces of counterfeit goods in the Czech Republic.

#### Chemical product

Searches for Chinese exporters of alleged counterfeit chemical products from China into the UK have been instrumental in providing further assistance to the UK national authorities. This information will be added to the evidence collected so far in an upcoming prosecution against a UK importer. Searches for a specific Chinese exporter of alleged counterfeit chemicals from China into the UK revealed that the company' exports were diverted to Ukraine. OLAF subsequently cooperated with the Ukraine customs and the information led to the seizure in Ukraine of two shipments of counterfeit goods, the arrest of eight persons (who could face between five and eight year imprisonment and confiscation of property) and the shutdown of two illegal productions sites.

In several selections, OLAF asked to check whether the operator involved had traded from China. This information is essential in order to prove or disprove some of the allegations of fraud received by OLAF.

The trade databases continue to be vital investigative tools for investigations in custom and trade irregularities and fraud. They are also important tools in the assessment of incoming information to determine whether or not to open an investigation.

The **Global Trade Atlas Database (GTA)** is commercial database of trade statistics, worldwide, aggregated at monthly level. It is used by both the Member States and OLAF to analyse trade flows, identify suspicious trade and cross-check allegations of customs fraud involving one or more Member States. Cross-checks can support decisions on whether to open a case or not, thus saving resources for all concerned.

GTA is used by OLAF in all initial assessments where the level of detail is appropriate, both to dismiss potential cases (thus saving time & money) or to support them (thus adding to the background information and supporting allocation of resources)

Dismissed Cases:

- Case 1: product A allegedly transhipped via a third country: GTA enabled to determine no change in the pattern of trade.
- Case 2: product B from a third country. GTA results showed no significant changes of imports into the EU from 2 third countries, and suspicions about potential transshipment were not supported.

Opened Cases:

- Case 3: product C allegedly transhipped via a third country: GTA enabled to establish clear change in the pattern of trade. Estimated financial impact of the case: EUR 2 000 000.
- Case 4: misrepresentation of product D. GTA extractions enabled the extension of the scope of the allegation in relation to Member States that were not considered initially as potential importers. The estimated financial impact of the case is EUR 3.700.000.

Examples of operational results obtained from the use of the CONTRAFFIC tool (developed with the Joint Research Centre):

Until March 2013 the Singular Administrative Document (SAD) data analysis facility was used by 10 MS Customs sending their data to JRC systematically and receiving signals in return (out of 12 MS that joined the project so far); 800 000 SAD declarations were screened by this origin cross-checking facility in 2012; more than 180 signals for suspect mismatches were detected and sent out to MS; the estimated total value of the signals produced in 2012 amounted to about EUR 33 million.

**CONTRAFFIC** has a 38% coverage for incoming containers into the EU; from previous experiences it is known that a large part of SAD declarations do not feature a correct container ID and cannot be analysed; in addition it is difficult to deal with cases where containers are stuffed inside transshipment hubs; and it is not possible to detect cases where products change containers in intermediate transshipment ports.

Finally, in terms of SAD data analysis capacity enhancement, in the course of the past 12 months, JRC developed and operated successfully a dedicated secure on-line document management system to manage the data sharing with MS Customs and OLAF.

#### **4.4. To strike a geographical balance by including all MS, acceding countries and candidate countries**

One objective of the Hercule II Decision is to ensure a geographical balance in the participation of Member States, acceding states and candidate countries in the programme. In 2012, organisations located in 19 Member States received a grant.

Under the Technical Assistance sector (sectors 7.1.1 and 7.1.2) 14 Member States were awarded a grant for purchasing specialised technical equipment, strengthening their capacities in the fight against irregularities, fraud and corruption. The external databases procured with Hercule II budget were intensively used by national and regional administrations responsible for protecting the EU's financial interests in all 27 Member States.

#### **4.5. To multiply and intensify the measures in areas identified as the most sensitive, particularly in the field of cigarette smuggling and counterfeiting**

The widespread availability of illicit tobacco within the EU has led to the loss of considerable tax and duty revenues (losses to the EU and Member States' budgets as a result of cigarette smuggling are estimated to be at least EUR10 billion per year). One feature of the illicit market for cigarettes in the EU is the significant quantity of counterfeit products available at lower cost than the genuine products.

The Commission concluded a contract with the Scottish Oceans Institute (SOI) for the establishment and maintenance of a database identifying the characteristics of tobacco products and the analysis of sample tobacco products. A quarterly report was delivered by SOI, assessing the similarity between the samples delivered by OLAF and the reference samples obtained by the contractor, the likelihood of a sample being a genuine or counterfeit product, and what continent or geographic region the sample has affinities with. In 2012, OLAF received the notification that 45 samples of cigarettes packs had been sent by the MS to SOI for analysis.

The **Danish law enforcement agency** received a grant used for the purchase of six scanners used in operations dedicated mostly to the fight of smuggling of cigarettes and other illicit activities at airports and harbours. The equipment is used from December 2011 and during the first six months of 2012, almost 30 000 scans and controls were made, which led to 370 hits. As a result of those hits, the law enforcement agency was able to retrieve 87,220 cigarettes and almost 24 kg of smoking tobacco. In addition, drugs (30,000 XTC tabs, 8 kg marihuana and 91 kg qat) and medicines (almost 10.000 pieces) were seized.

### **5. COMMUNICATION ACTIVITIES**

The successful implementation of the programme required the development of a structured way to:

- inform (potential) beneficiaries of the programme on funding opportunities;
- disseminate information on the achievements and the results of the actions that received funding.

### 5.1. Informing potential beneficiaries

Concerning grants, the calls for proposals were published on the Commission's website ([http://ec.europa.eu/anti\\_fraud/about-us/funding/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/funding/index_en.htm)).

The following Calls for Proposals were published in 2012:

	<b>Sector of Activity</b>	<b>Budget available (EUR)</b>	<b>Deadline for the submission</b>
7.1.1	Technical support for national authorities' use of special investigative tools and methods in the fight against fraud and corruption, and technical support to strengthen inspections of containers and trucks at the EU's external borders, including the fight against cigarette smuggling and counterfeiting	3 750 000	31 May 2012 13 September 2012
7.1.2	Technical support for detecting the presence of cigarettes and tobacco	3 300 000	31 August 2012 14 February 2013
8.1.1	Training, seminars and conferences	1 000 000	4 May 2012 17 September 2012
9.	Training, seminars and conferences – Legal part	700 000	31 May 2012 1 October 2012

The professional networks (mainly the European Lawyers' Association and the training organisations) were approached by OLAF's staff members concerning information on funding opportunities. Potential candidates were also informed via e-mails sent to the members of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), the OLAF Anti-Fraud Communicators Network (OAFCN) and European Judicial Training Network (EJTN). The training call was also published in the news section of the e-Justice Portal.

### 5.2. Dissemination of results

The dissemination of the results of actions under Hercule II, in particular technical assistance, is rather sensitive as most of the achievements relate to investigations for which the information cannot be disclosed. The dissemination on training activities was realised through the distribution of electronic and/or paper reports summarising the event. Some beneficiaries posted the training materials on their websites or created a dedicated website for their projects.

### 5.3. Communication and publicity

Under the training (8.1.1 and 8.1.2) and the legal training (9) sectors, all beneficiaries of grants were requested to mention the support from the Hercule II programme:

- (5) In every publication (title page) or related material developed (e.g. studies, booklets, newsletters, leaflets);
- (6) In electronic information (e.g. websites, audio-visual material, videos, software) and;
- (7) At information events (conferences, seminars).

They were also requested to insert a link from their website to the Hercule II programme's site.

## 6. FEED-BACK FROM PARTICIPANTS IN THE PROGRAMME

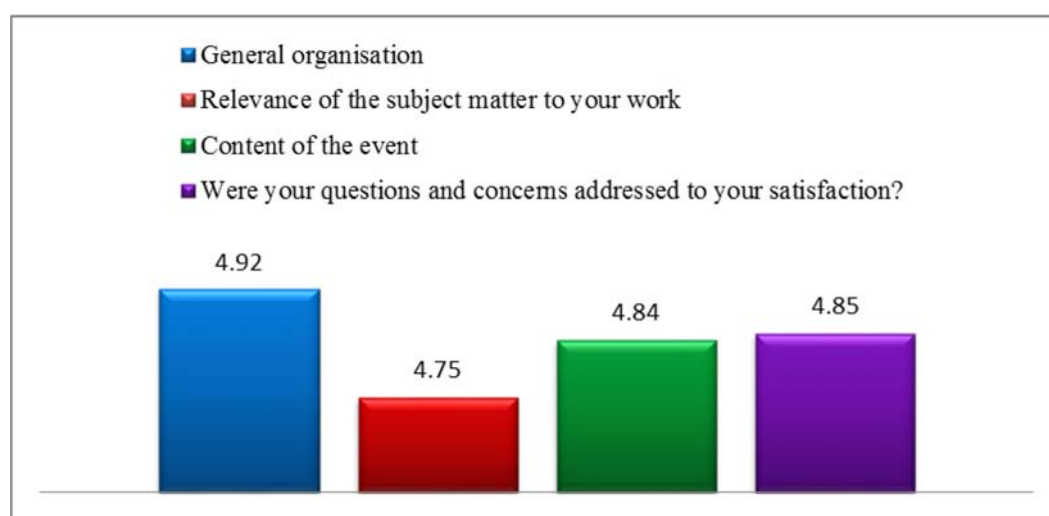
In 2012, OLAF carried out an **informal consultation of the following stakeholders**, partly based on questionnaires:

- OLAF's **Task Group Cigarettes partners** (specialist services in Member States concerned in particular with the agreements with the tobacco manufacturers);
- **Member State services that access the specialist databases** procured by the Commission under the programme's technical assistance sector;

The consultation confirmed the importance of the Hercule II programme but indicated that the co-financing rates under the technical assistance sector were too low (maximum 50% of the total eligible cost of actions).

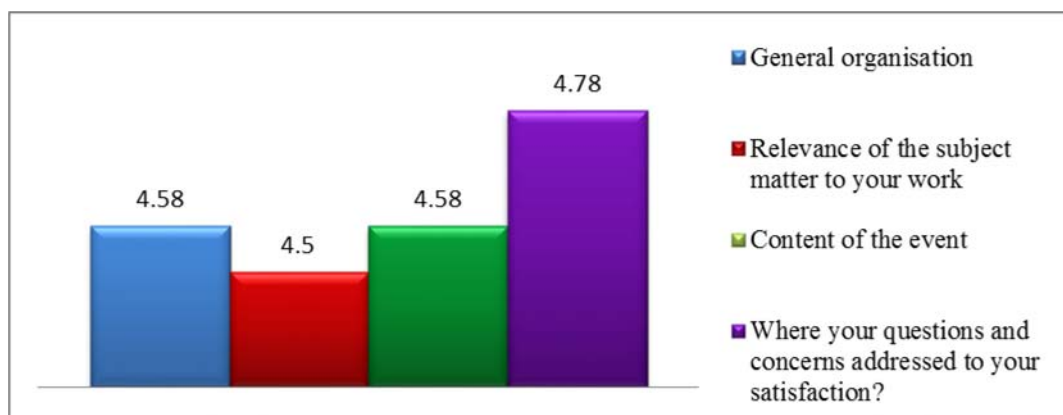
Participants attending events funded under the Hercule II programme are request to provide feed-back on the quality, relevance and usefulness of the event in view of improving and adjusting the events to future needs.

The Romanian Department for the fight against fraud (DLAF) organised a series of training activities between 12 and 29 March 2012 in Bucharest and Zagreb (Croatia) with as title: **"Fight against frauds affecting EU's budget - Sharing the Romanian experience with the Croatian authorities"** with participants belonging to judicial and law enforcement organisations from both countries. The participants rated the relevance, content and organisation of the event in a positive way, as shown in the graph below:



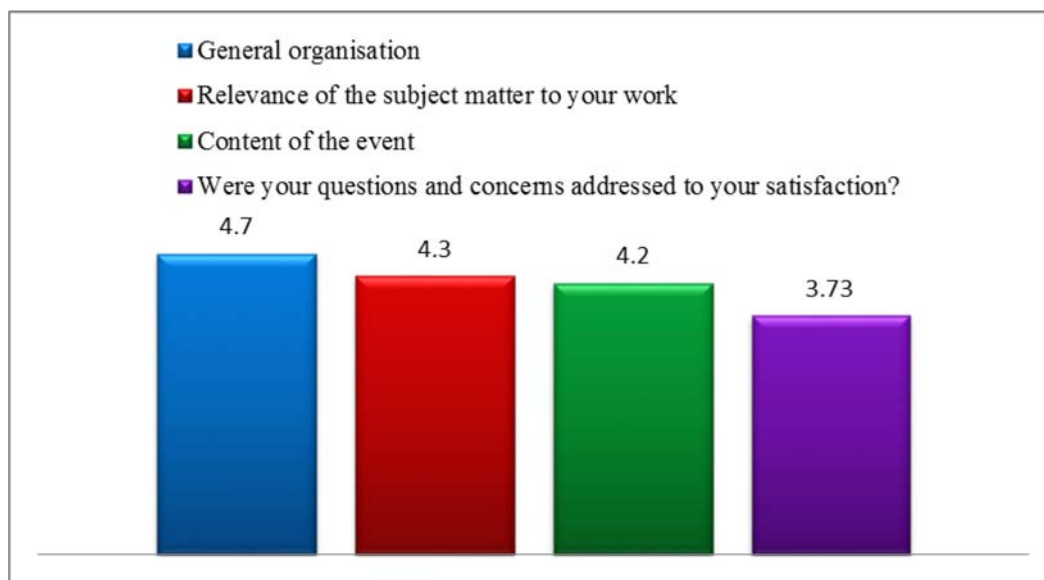
Graph: Results evaluation DLAF Conference (1: poor, 5 excellent).

The **Customs Directorate of the Slovak Republic** organised a training for customs officers from 19 to 31 March 2012: "Training customs officers in the area of fight against corruption and fraud, particularly against tobacco products smuggling and counterfeiting". The standard evaluation form was filled in by 40 participants and showed a high degree of satisfaction on the relevance, content and organisation of the event (Ratings from 1 (poor) to 5 (excellent)):



Graph: Results evaluation Slovak Customs Conference (1: poor, 5 excellent).

The Academy of European Law ('Europäische Rechtsakademie' – ERA) in Trier, Germany, organised the Annual Forum on Combating Corruption in the EU 2012: "Protecting the European Union's Financial Interests: Internal and External Auditing". The event took place on 16 and 17 February 2012 and was funded under the "Legal Training" sector of activity. The evaluation form was filled in by 43 participants (Ratings from 1 (poor) to 5 (excellent)):



Graph: Results evaluation ERA Conference (1: poor, 5 excellent).

## 7. CONCLUSIONS AND WAY FORWARD

The results above show that the activities covered by the annual overview 2012, and funded under the Hercule II Programme, were overall successful. By 31 December 2014, the

Commission (OLAF) shall present to the European Parliament and to the Council a report on the achievement of the objectives of the programme<sup>15</sup>.

The available budget for the Hercule II Programme was committed for 91%. It should be noted that half of the budget was spent on grant agreements, in particular technical assistance, which require a national co-funding of at least 50% of the eligible costs. Budget restrictions in the Member States eventually led to fewer applications for smaller amounts as well as the withdrawal of some successful applications.

By the end of 2011, the Commission adopted a proposal for a new programme, Hercule III, under the Multi-Annual Financial Framework MFF (2014-2020)<sup>16</sup>. This proposal was discussed within the Anti-Fraud Working Group of the Council (GAF), which mandated the Presidency to start negotiations. The GAF generally supported the Commission's proposal, but could not reach a final position on the co-funding rates for grants and the overall amount for the programme. The EP report on the proposal, which was adopted in November 2012, contained 46 amendments. The EP, the Council and the Commission have started in 2013 an informal trilogue within the framework of the ordinary legislative procedure.

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<sup>15</sup> Art 7 of the Decision 878/2007/EC of 23 July 2007.

<sup>16</sup> COM (2011)914 final of 19 December 2011.