EUROPEAN UNION
THE COUNCIL

Brussels, 26 November 1993

10611/93

JUSTPEN 13

COUNCIL RESOLUTION

of

on the protection of the Community's financial interests

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Recalling the Council Resolution of 13 November 1991 concerning the protection of the financial interests of the Communities ([1]) in which the Council and the Representatives of the Governments of the Member States, meeting within the Council, called upon the Commission to conduct a comparative law study of the Member States' laws, regulations and administrative provisions relating to fraud against the Community budget;

Bearing in mind, furthermore, recent developments regarding the relationship between Community law and criminal law, particularly the Court of Justice judgment of 27 October 1992 in case C-240/90 ([2]);

1([1]) OJ C 328, 17.12.1991, p. 1.
([2]) Germany v Commission of the European Communities - ECR 1992 Part 1, p. 5383.

Considering that, without prejudice to Community competence, the question of protection of the financial interests of the Community must henceforth be examined in the light of the co-operation introduced under Title VI of the Treaty on European Union;

1. Notes with interest the comparative study of the laws, regulations and administrative provisions of the Member States relating to fraud against the Community budget which was conducted by the Commission on the basis of the Resolution of the Council and the Representatives of the Governments of the Member States meeting within the Council;

2. Considers that that study suggests very useful avenues to be explored with a view to protecting the financial interests of the Communities and highlights fundamental questions of principle which require detailed examination;

3. Considers that some of those questions fall within areas of common interest covered by Title VI of the Treaty on European Union and therefore require detailed examination by the bodies set up within the framework of Title VI;

4. Considers that the study of the relationship between Community law and criminal law should be continued in the light of the aforesaid judgment of the Court of Justice and the study conducted by the Commission;

5. Considers it necessary to examine the implementation of Article 209a of the Treaty establishing the European Community in the Member States;

6. Considers it necessary to examine, in the light of the study conducted by the Commission and the earlier work of the ad hoc Group on Community Law and Criminal Law, the measures which should be taken to achieve a greater degree of compatibility in the laws, regulations and administrative provisions of the Member States in the effort to combat inadmissible practices by which harm is done to the financial interests of the Community, with particular attention to the following points:

(a) offences;

(b) liability;

(c) penalties;

(d) settlements and the like;

(e) extra-territorial application and mutual assistance in criminal matters;

(f) limitation;

7. Has decided to examine, in the second half of 1994, the report to be submitted to it in accordance with points 4, 5 and 6 of this Resolution and any proposals it may contain;

8. Notes that this Resolution does not prejudice the division of competence between the Community and the Member States in relation to these matters.