



INSPECTORATE GENERAL  
FRAUD INVESTIGATIONS DIVISION

ANNUAL REPORT 2009

## Message from the President

The European Investment Bank Group includes both the European Investment Bank and the European Investment Fund. This report covers the work of the Fraud Investigations Division in respect of both organizations.

Addressing issues of fraud, corruption, collusion and coercion and minimizing the risk of such issues to future activities and operations is a key component of achieving our goals – not only is corruption and fraud intolerable from an ethical point of view, but on the practical side it can severely jeopardize the work of our institutions. Corruption can undermine democratic institutions and hamper investment, economic growth and job creation.

That is why the EIB's Anti-Fraud Policy contains a statement of "zero tolerance" to fraud and corruption and why the work of the team at the Inspectorate General's Fraud Investigations Division is so important to the outstanding efforts of all staff at EIB Group.

The Fraud Investigations Team has continued to work to investigate allegations of fraud and corruption in EIB operations and activities and, indeed, has started to implement pro-active tools in order to increase the detection of such issues and thereby raise deterrence, allied to the on-going work to raise awareness of the risks. They play a major part along with other services in the Bank in safeguarding the integrity of our activities and operations.

Moreover, it is critical to the success of EIB Group's mission that all staff at EIB and its counterparts, whether they are borrowers, bidders, contractors, suppliers, recipients of investments funds, or government officials continue to work to the highest standards of integrity and ethics.

Philippe Maystadt  
EIB Group President

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## **1. Introduction**

Fraud Investigations Division (IG/IN) is the unit within the Inspectorate General (IG) of the European Investment Bank (EIB) Group tasked with investigating allegations of fraud and corruption in EIB and EIF operations and activities. IG/IN reports through the Inspector General directly to the President. The Bank has a “Zero Tolerance” of fraud, corruption, collusion and coercion, as stated in the Bank’s Anti-Fraud Policy – the Policy was adopted following approval in 2008 by EIB Board of Directors and can be found at the following link: <http://www.eib.org/about/publications/anti-fraud-policy.htm>

The Division receives and investigates allegations from any source (inside or outside the EIB Group) of suspected fraud, corruption, coercion and collusion related to the EIB Group’s activities and operations. Such reports could include allegations of fraud or corruption involving bidders, contractors, sub-contractors, government officials, intermediaries, and fund managers and/or staff members of the EIB Group.

Investigations are carried out in close consultation and cooperation with the European Anti-Fraud Office (OLAF), the EU administrative investigative body, whose remit is the fight against fraud, corruption and other illegal activities detrimental to the European Union financial interests. This cooperation includes the exchange of all relevant information, regular contacts between the two offices, meetings and, where appropriate, joint missions. The EIB also co-operates closely in the fight against fraud and corruption with other international financial institutions (IFIs) and national agencies.

Reports on the findings made by IG/IN are made through the Inspector General to the President and responsible Vice President and, at the same time, to the Audit Committee and OLAF. In the case of the European Investment Fund (EIF), the reports go to the Chief Executive, the Deputy Chief Executive, the Chairman of the Board of Directors, the Audit Board and OLAF. In both institutions, the External auditors are also informed.

The procedure on how complaints can be made can be found at <http://www.eib.org/news/how-to-report-fraud-or-corruption.htm>

The Division is also responsible for devising and implementing pro-active measures against fraud and to undertake policy initiatives to ensure the Bank’s policies and procedures are more robust based on “learning the lessons” from findings from earlier cases and to provide new tools, such as exclusion, which the Bank can use to deter future fraudulent or corrupt conduct.

## 2. Overview

This Annual Report covers the calendar year January 1 – December 31, 2009. It was a year in which the Bank continued to make significant advances against fraud and corruption in its operations and activities. The Division also increased its preventive and deterrent capacity. During the year, there were a number of developments in IG/IN's anti-fraud work, as outlined below.

### **(a) Anti-Fraud Policy and Related Initiatives**

Following the adoption of the Anti-Fraud Policy by the EIB Board of Directors in April 2008, IG/IN worked on a number of anti-fraud-related initiatives as follows:

- IG/IN led the work to put in place a working exclusion system. The EIB team has, among others, (i) hired consultants to advise on an appropriate mechanism for exclusion by EIB of entities found to have engaged in fraud and corruption in EIB operations and (ii) consulted with the European Commission to explore the possibility of applying an enhanced system of exclusion to the EIB, taking into account the new provisions in force within the EU institutional framework and ensuring that EIB has access to the Commission's database of excluded entities;
- IG/IN continues to actively participate with counterparts in seeking further harmonisation/convergence of procurement processes (to the extent possible) with the other International Financial Institutions;
- IG/IN provided detailed technical advice to the Compliance Office in its review of the protection provided to whistleblowers with the aim of establishing an integrated and comprehensive approach to the issue; and
- Work with other EIB staff on procurement policy and involvement in the Procurement Steering Group.

### **(b) Investigative Activities**

The following table summarises the case activity during 2009 and compares it with the figures from the last five years:

	2004	2005	2006	2007	2008	<b>2009</b>
Cases pending from previous year	10	6	16	19	24	<b>23</b>
New cases opened	14	21	23	21	21	<b>16</b>
Total cases worked on	24	27	39	40	45	<b>39</b>
Investigations closed	18	11	20	16	18	<b>12</b>
Cases open at year end	6	16	19	24	27	<b>27</b>

**(c) Coordination with IFIs and Others**

IG/IN has, pursuant to the IFI's Anti-Corruption Uniform Framework Agreement signed in September 2006, continued to meet regularly and work closely with the investigation and integrity offices of the other International Financial Institutions.

This collaboration included cases which were investigated jointly with investigation colleagues from the World Bank, the Inter-American Development Bank (IADB) and/or the European Bank for Reconstruction and Development (EBRD).

IG/IN has also has a number of useful meetings and discussions with national authorities, judicial bodies and/or law enforcement agencies etc. on cases of common interest.

**(d) Raising Awareness of Integrity Issues**

Following an international selection process undertaken during 2008, IG/IN and the EIB Training Unit selected an external training consultancy, Lessons Learned Ltd, to assist IG/IN in designing and providing a 1-day fraud awareness training course. This resulted in successful pilots, and led to IG/IN rolling out a programme of fraud awareness training seminars targeted initially at operational staff - the programme is intended to cover the period 2009 – 2011. The training session discusses the nature of the work undertaken by IG/IN and raises the profile of the Division's anti-fraud initiatives, reminds staff of their duty to report suspicions of fraud and corruption and through case studies provides bespoke examples according to their operational background to study possible "red flag" warnings.

The training session has been well-received during 2009 and the feedback about the day-long course has been very positive. Although the anticipated steady rise in reporting of allegations during 2009 was not as large as was initially anticipated, there were a number of new cases opened as a result of reports made by staff who had previously attended the training course.

In addition the 2008 Annual Report was published in July 2009<sup>1</sup>.

Staff from IG/IN has continued to raise awareness of fraud and corruption issues by participating in a range of seminars and workshops, both within and outside the Bank. This included involvement in the 10<sup>th</sup> Conference for International Investigators hosted by UNWRA in Jordan in June 2009.

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<sup>1</sup> The link to the 2008 report is: <http://www.eib.org/about/publications/inspectorate-general---fraud-investigations-annual-report-2008.htm?lang=en>

In addition, the 2007 Report can be found at the following link:

<http://www.eib.org/about/publications/inspectorate-general---fraud-investigations-annual-report-2007.htm?lang=en> and the 2006 Annual Report can be accessed at:

<http://www.eib.org/about/publications/inspectorate-general---fraud-investigations-annual-report-2006.htm>

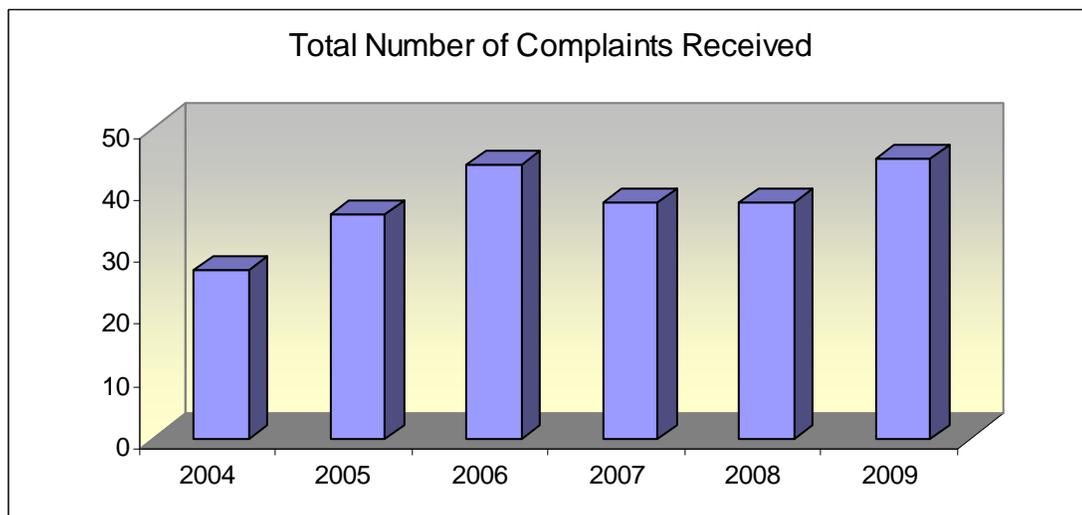
### 3. Investigations in 2009

- Receipt of Allegations

Upon receipt of a complaint, IG/IN initiates a screening process, which identifies whether a complaint falls within its mandate and is credible, verifiable and material. At the conclusion of the screening, the Head of IG/IN decides whether a complaint warrants further investigation. If not, the matter will either be closed, or, if appropriate, referred to another department within the EIB Group.

During 2009, the Division accepted – and opened investigations for - 16 new complaints, lower than the figure of 2007 and 2008. The total number of complaints not accepted was almost double at 29. Although these complaints do not lead to a case being opened, they can be time-consuming to review and close.

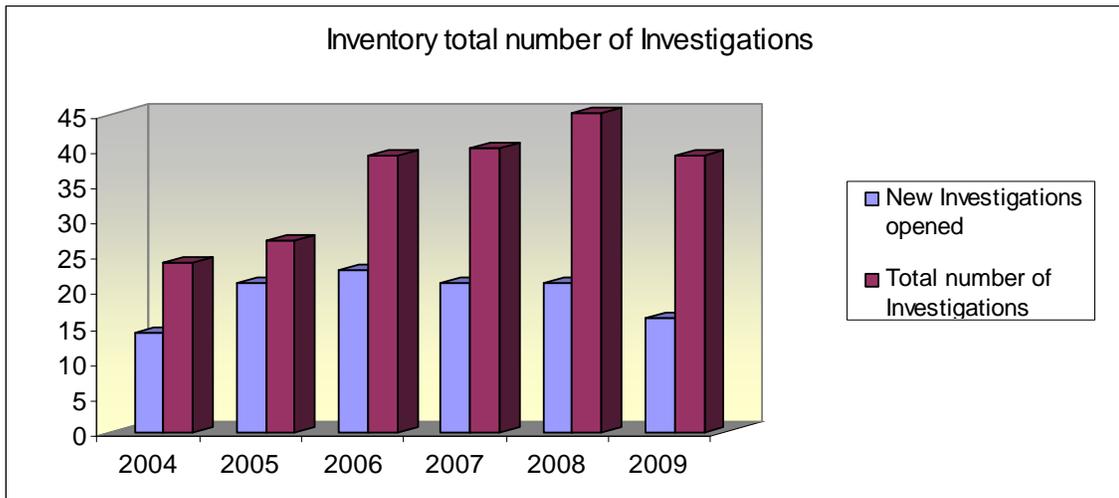
The non-cases are logged in a file which is open for review by OLAF.



- Investigations

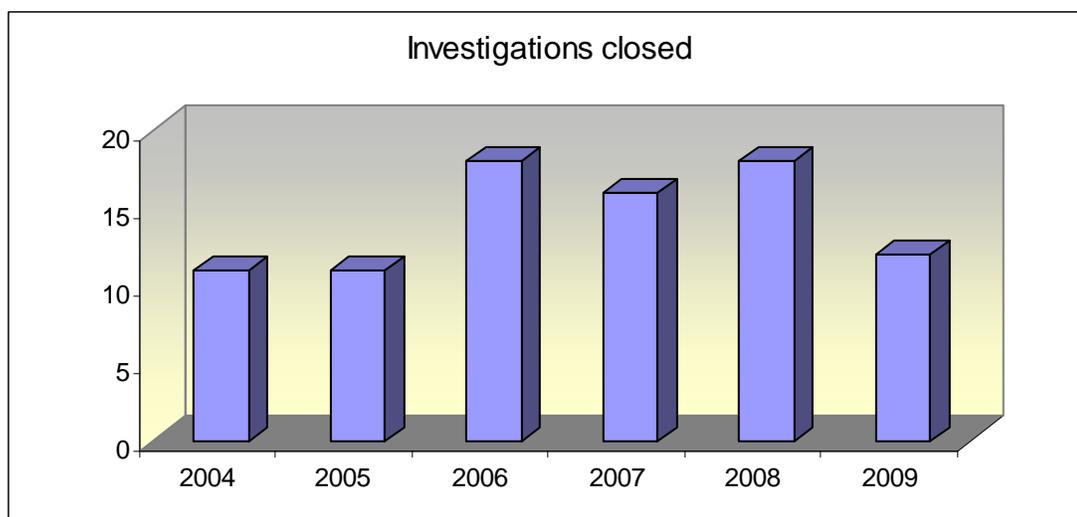
Together with the 23 on-going investigations from the previous year, the Division worked on 39 cases in 2009 (compared to 45 cases in 2008 and 40 in 2007). Of these, 6 concerned fraud allegations related to or involving companies receiving EIF funds.

In 2009, the number of cases worked on involving issues outside the EU and inside the EU both fell, although the proportion remained roughly the same as in 2008 (outside the EU: 27 in 2008 down to 16 in 2009; inside the EU 14 in 2008 down to 9 in 2009).

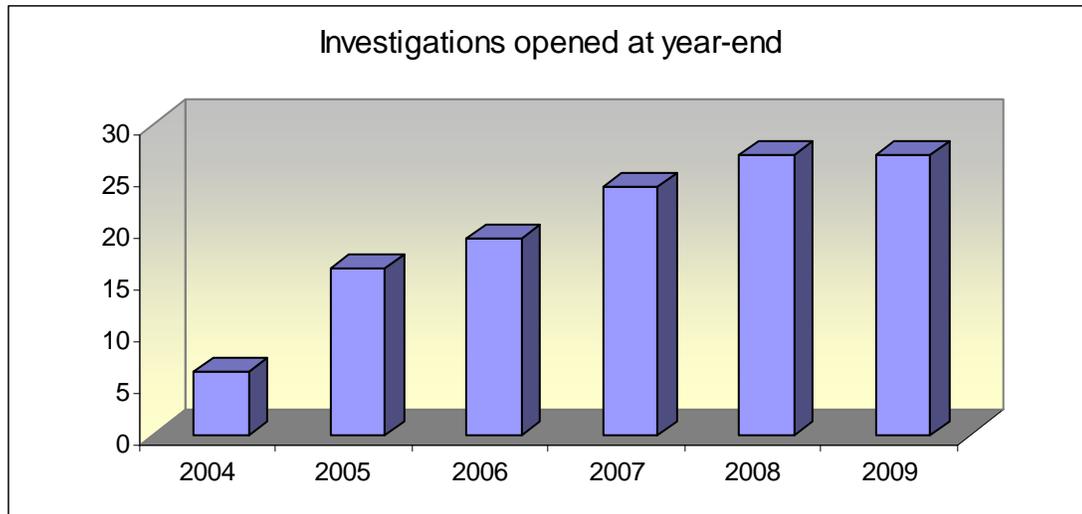


In 2009, 12 cases were closed for the following reasons:

- no or insufficient proof was found: 2
- results of investigation referred to judicial authorities and /or loan (partly) reimbursed: 2
- no wrongdoing found: 5
- adequate reaction by promoter: 3



Due to the high workload (from both casework and policy issues) and increasing complexity of investigations, the gradual increase of cases open at year-end continued with 24 open cases in 2007 rising to 27 in 2008 and 2009.



- Nature of allegations

In accordance with the Uniform Framework for Preventing and Combating Fraud and Corruption<sup>2</sup>, agreed between the Heads of the International Financial Institutions, the following definitions are used:

- a corrupt practice: the offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- a fraudulent practice: any act or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- a coercive practice: impairing or harming, or threatening to impair or harm, directly or indirectly, any part or the property of the party to influence the actions of a party; and
- a collusive practice: an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

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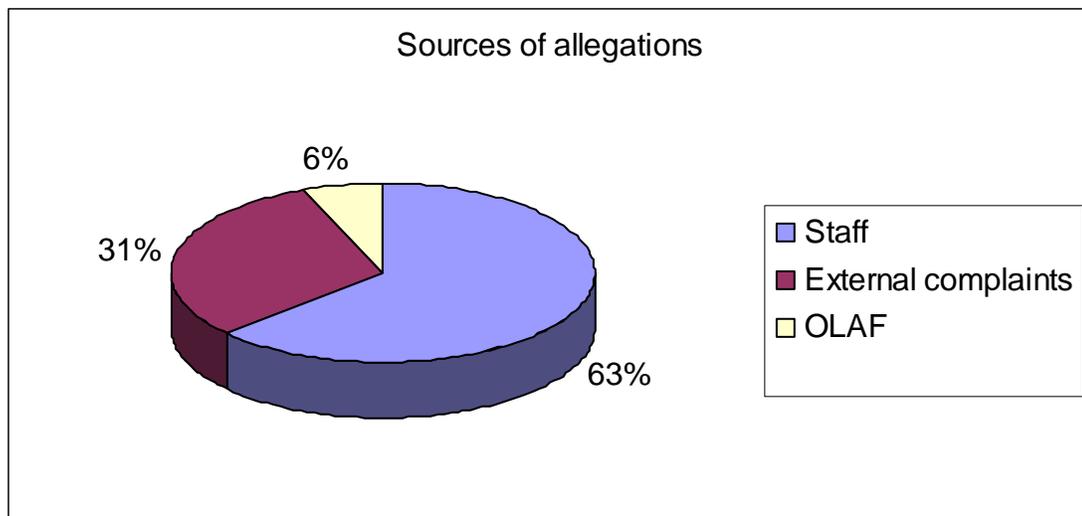
<sup>2</sup> From February to September 2006, IG participated in the IFI Anti Corruption Task Force and hosted one of the meetings. The heads of the institutions represented agreed on the harmonisation of their definitions; agree on common principles and guidelines for investigations, the strengthening of the exchange of information and the exploration of cross-recognition of debarment actions. The resulting agreement was signed on September 20, 2006 during the IBRD/IMF annual meeting in Singapore. The document is available on EIB's website at: [www.eib.org/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm](http://www.eib.org/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm)

Based on these definitions, 63% of the new cases opened in 2009 primarily concerned allegations of fraud and 31% primarily concerned allegations of corruption; there were no allegations of collusion between bidders in 2009. The remaining 6% (1 case) represented internal issues.

- Sources of allegations

In 2009, more allegations of possible fraud concerning EIB funding originated from EIB Group staff than was the case in the previous years (63% in 2009 or 10 of 16 cases, 52% in 2008, against 43% in 2007 and 34% in 2006), which is encouraging. By far the next most important source was complaints from third parties who contacted the Bank (31% or 5 of 16 cases), with the remaining originating from OLAF (6% or 1 case).

The large majority of cases reported by staff members concern EIB lending outside the EU. While IG/IN maintains a dedicated 'Investigations' e-mail address and a confidential fax to receive allegations from outside the Bank, these resulted, as in the previous year, almost exclusively in non-cases in 2009.



- Follow-up

As a follow-up to its investigative findings and other activities, IG/IN may include recommendations to the operational and project departments. These recommendations try to ensure that remedial measures are taken and policies and procedures are amended where appropriate.

In addition, the Bank offered a fraud-awareness training course for EIB staff so that they are better able to recognise "red flags" of fraud and corruption. Over and above the greater awareness of fraud issues of operational staff, this process should, over time, also feed into the project/lending cycle resulting in the incorporation of "lessons learned" into better designed and implemented projects.

#### **4. A New Tool - Proactive Integrity Reviews (PIRs)**

In 2009, IG/IN started to develop a new instrument called the Proactive Integrity Review (PIR). One of the reasons for introducing PIRs was the need for IG/IN not merely to react (by opening investigations) to fraud allegations but to increase its proactive and preventive role.

PIRs are designed to add to the Bank's current operational monitoring by selecting projects for an in-depth review by IG/IN in order to look for and identify so called "red flags", possible indicators of fraud and/or corruption. This approach will also increase the preventive capability of the EIB Group and increase deterrence against fraud and corruption.

Projects will be selected for a PIR independently by IG/IN on the basis of an extensive risk assessment process, with the aim to identify projects of a complex nature or that are implemented in a difficult environment and are therefore exposed to potentially higher risks of fraud and corruption.

Similar proactive reviews are undertaken by counterparts at the investigation/integrity units of other IFIs and are considered complementary to the reactive investigations of known allegations.

Preparatory work undertaken during 2009 will lead to the first PIRs being undertaken by IG/IN and external consultants during 2010. This work will be led by IG/IN's forensic accountant/investigator who was recruited for this purpose.

#### **5. EIF's new Anti-Fraud Policy**

After completion of EIB's anti-fraud policy and procedures, the IG/IN staff worked with EIF Compliance and Legal staff during 2008 and 2009 to prepare its own anti-fraud policy, which is based on the EIB policy. The EIF anti-fraud policy was finalised during 2009 and adopted by the board of Directors in December 2009. The EIF policy is published on their website<sup>3</sup>.

The IG/IN Investigation Procedures are applied, mutatis mutandis, to cases arising from the EIF.

#### **6. Staffing**

Based on an increasing case-load and IG/IN's involvement in a number of time-consuming policy issues (including the launching of the PIR instrument – see above), senior management provided budget authorisation for IG/IN to recruit two additional members of staff in 2009. Following two distinct recruitment exercises, two new staff were recruited comprising one investigator and one forensic accountant/investigator (to focus on undertaking pro-active investigations). These additions to the unit took the number of staff working in IG/IN up to 5.

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<sup>3</sup> See the EIF anti-fraud policy at:  
[http://www.eif.org/attachments/publications/about/2009\\_Anti\\_Fraud\\_Policy.pdf](http://www.eif.org/attachments/publications/about/2009_Anti_Fraud_Policy.pdf)

IG/IN also benefited from a staff exchange with OLAF during 2009 when an investigator from IG/IN worked with OLAF in Brussels and an OLAF investigator worked with IG/IN in Luxembourg.

In addition, the Management Committee decided to formally upgrade the Unit to a Division.

In preparation for the retirement of the Head of Division early in 2010, a recruitment round was held during autumn 2009 to select a new head. The new Head, a former Head of Unit from OLAF, started at EIB in February 2010.

As in previous years, the Division also utilised the services of consultants (experts in engineering, procurement, forensic accounting, etc.) to assist and advise it in appropriate cases.

The Division also benefited from the use of external training consultants to assist in the development of a fraud awareness training course for EIB staff. Following the successful pilot sessions conducted in March 2009, it is envisaged that the 1-day training course will be provided over 40 times during the period 2009 – 2011. This will equip staff with the necessary tools to identify “red flags” of fraud and corruption and ensure that newcomers are ‘up-to-speed’ on EIB’s anti-fraud mechanisms. It also reminds staff of their (and EIB counterparts’) responsibility to report allegations of fraud or corruption to IG/IN immediately.

## **7. Contacts with OLAF**

There is a continuous and valuable co-operation and exchange of information between IG/IN and OLAF. This ensures that the EIB Group benefits from the full expertise and independence of OLAF as the organisation responsible for investigating fraud and corruption affecting the European Community’s financial interests. At the same time, the involvement of IG/IN provides each investigation with banking and investment expertise and know-how.

In 2009, the cooperation with OLAF included regular monthly meetings, 10 joint missions and several visits by OLAF to the EIB Group offices to examine specific banking files and documents.

## **8. Inter-Agency Coordination**

As well as the close cooperation with OLAF noted above, IG/IN has continued to work closely with the investigation offices of the International Financial Institutions (IFIs).

Joint meetings with the IFIs are semi-annually and, arising out of the cooperation, a number of joint initiatives occurred during 2009. These include the exchange of information pursuant to the IFI’s Anti-Corruption Task Force’s Uniform Framework Agreement and continued discussion of proposals to harmonise the IFI treatment of the disclosure of (i) agents’ fees; and (ii) prior sanctions; by bidders during the procurement process. IG/IN staff also participated in initial discussions at meetings

hosted by the EBRD (February), AfDB (September) and World Bank (November) on possible mutual enforcement actions like cross-debarment.

IG/IN has also participated in productive meetings and/or useful cooperation with national judicial authorities, investigation agencies and/or prosecutors in a number of countries on specific case-related issues of common interest.

## **9. Other International Contacts**

Staff members from IG/IN are frequently invited to speak at conferences and integrity and anti-corruption events. Such contributions fit within IG/IN's commitment to raising awareness of fraud, corruption and integrity issues in and relating to EIB activities and operations. As a result, IG/IN staff spoke at or contributed to the following events during 2009:

- the 10<sup>th</sup> Conference of International Investigators, in Jordan;
- a meeting of the Investigation/Integrity units from the IFIs with counterparts from the Regional Development Banks (in parallel with the above event);
- MDB discussions with the Madison Group, an informal group of integrity/compliance staff from large US-based banks;
- a conference hosted by OLAF, EuropeAid and the National Prosecution Authority of Uganda concerning "The protection and optimisation of public funds: co-operation between national and international authorities in East Africa", in Kampala with representation from administrative control bodies and prosecutors from 17 African countries; and
- the 4<sup>th</sup> Independent Commission against Corruption (ICAC) and OLAF Symposium with the theme "Deals Under the Table: The Doing or Undoing of Business" in Hong Kong.

On the latter two conferences, the Inspector General spoke about the EIB's Fraud Investigation Division's activities.

An IG/IN staff member also attended the Annual Conference of the Association of Certified Fraud Examiners in the USA.

Furthermore, one IG/IN team member serves as a member of the Conference Secretariat of the Conference of International Investigators, providing planning assistance and advice for the future host.

IG/IN staff were also involved in a range of briefings to senior management and the Audit Committee on specific case-related issues, issues arising from the Anti-Fraud Policy (such as exclusion) or more generally on the role and function of IG/IN.

J.W. van der Kaaij  
Inspector General

J. Vlogaert  
Head of Division  
Fraud Investigations Division

**Annex 1**

**Complaints received, worked on and closed 2004 - 2009**

	2004	2005	2006	2007	2008	2009
<b>Total number of complaints received</b>	<b>27</b>	<b>36</b>	<b>44</b>	<b>38</b>	<b>38</b>	<b>45</b>
Cases reviewed but not opened	13 <sup>1</sup>	15 <sup>1</sup>	21	17	17	29
New investigations opened	14	21	23	21	21	16
On-going investigations from previous year and before	10	8	16	19	24	23
<b>Total number of investigations worked on</b>	<b>24</b>	<b>27</b>	<b>39*</b>	<b>40</b>	<b>45</b>	<b>39</b>
Concerning: Inside EU	16	17	20	28	14	9
Outside EU	8	8	17	11	27	16
Internal	0	2	2	1	4	2
Investigations closed	18	11	20	16	18	12
<b>Investigations open at year end</b>	<b>6</b>	<b>16</b>	<b>19</b>	<b>24</b>	<b>27</b>	<b>27</b>
Field missions	4	9	7	7	11	21
(of which with OLAF)	(2)	(2)	(5)	(3)	(4)	(10)
Cases referred or leading to loan acceleration	2	2	3	1	5	2
Meetings with OLAF	6	8	8	10	9	6

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<sup>1</sup> Estimated: systematic registration started in 2005

**EXAMPLES OF CASES INVOLVING EIB-FINANCED ACTIVITIES CLOSED**

<b>Allegation</b>	<b>Investigative Findings</b>	<b>Case Resolution</b>
<p><b>Misrepresentation</b></p> <p>Fraudulent use of EIB name: the Bank received several enquiries concerning the credibility of somebody posing as 'credit officer' of the EIB and offering his services as such.</p>	<p>While the perpetrator could not be identified, all complainants were duly informed.</p>	<p>IG/IN contacted the network provider of the website. In response, the provider removed the website and banned the e-mail address.</p>
<p><b>Fraud</b></p> <p>IG/IN was informed that the president and several employees of a borrowing financial institution had been found guilty of tax fraud.</p>	<p>IG/IN decided to review the register of EIB-financed allocations and found discrepancies. An on-the-spot verification found non-reported cancellations of allocations and a number of fictitious equipment contracts.</p>	<p>While no proof of intent or inappropriate benefit on the part of the financial institution was found, the EIB demanded early repayment of the total sum of the allocations concerned.</p>
<p><b>Fraud</b></p> <p>An EIB-participated fund alleged that its - EU-based - majority shareholder illegally siphoned off part of its funds and shortly afterwards went into liquidation.</p>	<p>A joint IG/IN-OLAF investigation concluded, among others, that</p> <ul style="list-style-type: none"><li>- the transfer of funds was illegal, and</li><li>- the fraud was committed in an EU country</li></ul>	<p>All documents and findings were transmitted to the investigative judge in the EU country concerned. Proceedings still ongoing.</p>
<p><b>Fraud</b></p> <p>IG/IN received a complaint, alleging that the president of an EIB-financed financial intermediary was sent on forced leave to facilitate an investigation into 'fraudulent activities'.</p>	<p>An IG/IN mission to the country concerned interviewed the new president and members of the board. The mission found that the alleged fraud was of minor importance, but that an important part of the EIB loan had been used for other than the intended purpose, including office computers, etc.</p>	<p>As there was a clear breach of the finance Contract, the Bank demanded immediate repayment of the entire loan.</p>