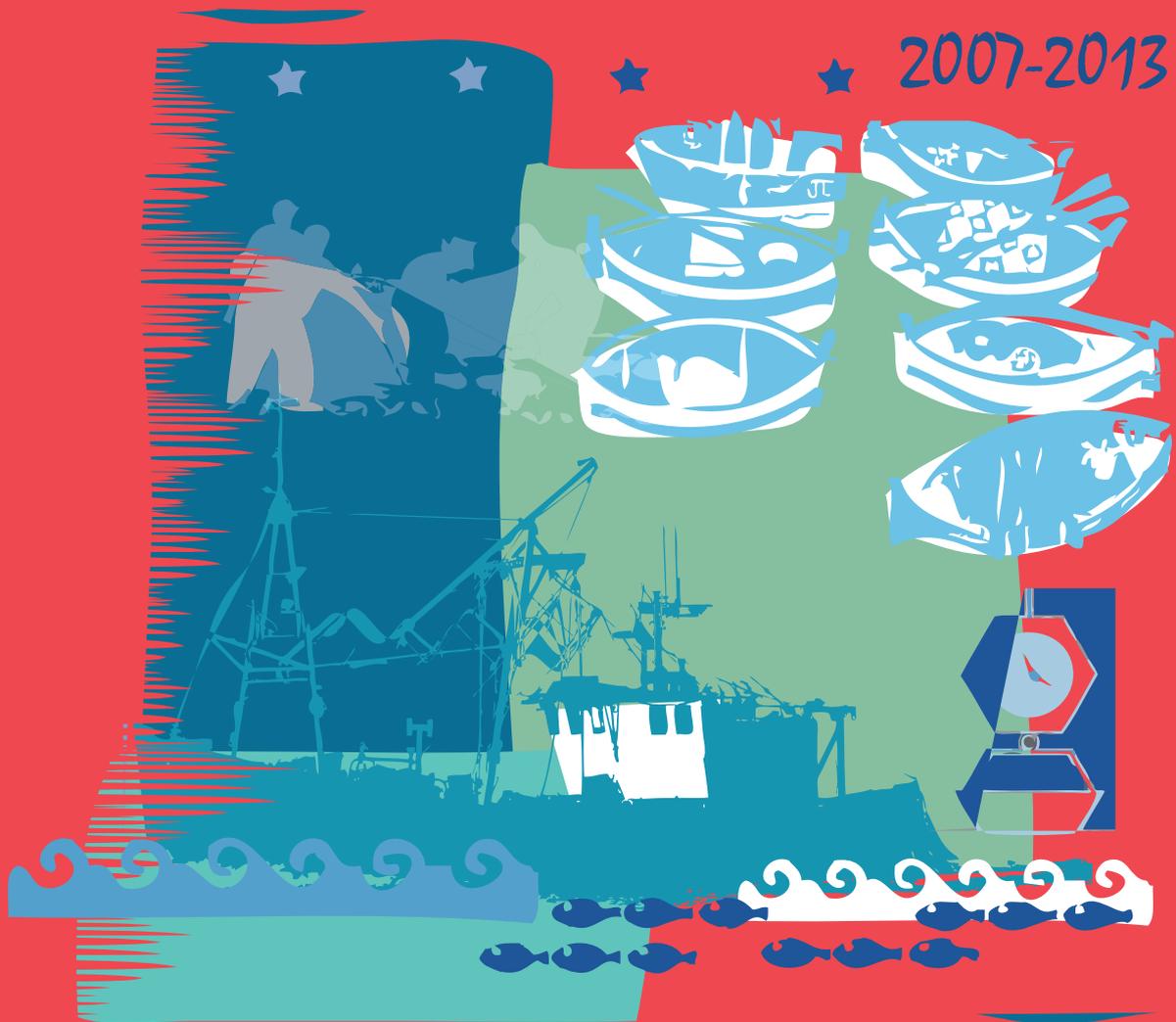


European Fisheries Fund

2007-2013



R E G U L A T I O N S



European Commission

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European Fisheries Fund
2007-2013

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Introduction

AN INSTRUMENT SERVING THE COMMON FISHERIES POLICY

In recent years, the fisheries and aquaculture sector has been taking up challenges that are decisive for its future. Shrinking resources are obviously at the heart of these challenges, as some stocks decline into an alarming biological state. Different types of damage to the marine environment also represent a crucial challenge. At the same time, the sector is also undergoing profound economic and social changes. Aquaculture is taking on growing importance in feeding the global population. In our part of the world, consumers increasingly choose prepared products, which leads to a considerable expansion of processing activities, but also creates many questions on the origin and quality of products. It is estimated that catch activities account today for only 10 to 20% of the total added value of the fisheries sector! A growing focus on ethics also prompts consumers to look for products whose production can be certified as being respectful of resources, the environment and social conditions.

All these new challenges were taken on board in the 2002 reform of the Common Fisheries Policy (CFP), the strategic framework of European action for the environmental, economic and social sustainability of the fisheries sector ⁽¹⁾. This strategy, however, required an appropriate financial instrument. *The European Fisheries Fund was therefore developed to serve as the instrument for implementing the CFP.* All stakeholders were informed and consulted as the EFF was shaped, in particular through the Advisory Committee on Fisheries and Aquaculture, as well as the Member States and European Parliament.

WHAT IS THE EFF?

The European Fisheries Fund (EFF) is the European Union's financial instrument for the fisheries sector. It entered into effect on 1 January 2007 for a period of seven years, replacing aimed at contributing to the financing of projects implemented by private enterprises, the public authorities, or representative bodies in all economic activities that form part of the fisheries sector: catch, ports, fish farming, processing, trade, etc.

The aim of the EFF is to help the sector attain the objectives defined as part of the CFP. Aid granted in this framework must therefore stimulate the development of an economically profitable and environmentally responsible sector that contributes to the wellbeing of the populations dependent on fisheries, in other words, to promote sustainable fisheries and aquaculture. From that perspective, the projects cofinanced by the EFF must help strike a balance between resources and fishing capacity, protect and enhance the

(1) For more information on the core areas of the 2002 CFP reform, see the DG Fisheries site: http://ec.europa.eu/fisheries/cfp/2002_reform_en.htm.

environment and natural resources, support the sector's competitiveness and economic viability, improve the quality of life in areas with fishing activity and promote gender equality for those working in the sector.

The total EFF budget amounts to EUR 3 849 million, expressed in 2004 prices, over the seven years of the programming period (2007-2013). All the European Union Member States may benefit from the fund, which will nevertheless be concentrated primarily in the less developed regions. Some 75%, or EUR 2 884 million, will be earmarked for regions eligible under the convergence objective, i.e. regions whose GDP (gross domestic product) per inhabitant is less than 75% of the EU average. In addition, EFF support is granted under the cofinancing principle whereby European aid is allocated as a complement to national public subsidies and self-financing by the beneficiary.

It will be up to the Member States to select the projects that will receive EFF support. Since the overall budget is limited, however, each Member State was asked to identify its priorities in partnership with representatives of the sector and the regional authorities concerned. In the national strategic plan, each Member State had to present a state of play for the sector, describe its objectives and spell out its priorities for achieving them. The strategic plan then served as the basis for drawing up an operational programme, in which the Member State set out in concrete terms how it planned to use its share of the EFF during the seven years of the programming period. These documents were discussed with the European Commission, which ensured consistency with the CFP objectives.

THE MAIN DIFFERENCES BETWEEN THE FIFG AND THE EFF

In terms of content, the EFF renews a number of measures already existing under the FIFG. Important innovative measures were also introduced in response to the new difficulties facing the fisheries sector and to meet the needs arising from the CFP reform. For example, the EFF finances certain types of assistance that did not exist under the FIFG, such as measures to accompany stock recovery plans, support for more selective fishing methods and the diversification and conversion of fishing areas affected by declining resources and changes in the sector, premiums for environmentally responsible aquaculture practices and so on.

On fleet support, the EFF retains the spirit of the change that had already been made to the FIFG regulation in 2005. The European Union does not wish to encourage fishing fleet overcapacity. An active vessel may only receive European aid for modernisations to improve safety and hygiene on board, or in specific cases to acquire more selective gear or to replace an engine to increase fuel efficiency, provided that doing so does not increase the vessel's power and fishing capacity.

The Member States will have more flexibility implementing the aid programme than under the FIFG, because with a view to simplification, the eligibility rules have been limited to what is strictly necessary at

EU level. They may therefore adapt measures more easily to the needs of their domestic sector, in keeping with their strategic plan and operational programme. What is more, since there is only one EFF programme per Member State, support can be concentrated and measures made more efficient. As a result of simplification, the four regulations governing the operation of the FIG were merged into two regulations for the EFF.

More than just a financial instrument, the EFF is a genuine driver of development. At a time when the European fisheries sector must take up numerous challenges to ensure its sustainability, the choice of the ways forward to ensure its future development is paramount for guaranteeing the future of the men, women, communities and regions relying on the sea for their livelihood.

COUNCIL REGULATION (EC) No 1198/2006

of 27 July 2006 on the European Fisheries Fund

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,
 Having regard to the proposal from the Commission,
 Having regard to the opinion of the European Parliament ⁽¹⁾,
 Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,
 Having regard to the opinion of the Committee of the Regions ⁽³⁾,
 Whereas:

(1) The development of the Community fishing fleet must be regulated in particular according to decisions that the Council and the Commission are called upon to take by virtue of Chapter II of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽⁴⁾.

(2) The objective of the common fisheries policy should be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of environmental, economic and social aspects in a balanced manner.

(3) The scope of the common fisheries policy extends to the conservation, management and exploitation of living aquatic resources and aquaculture, as well as to the processing and marketing of fisheries and aquaculture products in so far as those activities are practised on the territory of Member States, in Community waters or by Community fishing vessels or nationals of Member States.

(4) Under Article 33(2) of the Treaty, account must be taken of the particular nature of the activity which results from the social structure of the sector and from structural and natural disparities between the various regions involved in fishing activities.

(5) The sustainable development component of the common fisheries policy has been integrated into the rules governing the Structural Funds since 1993. Its implementation should be pursued in the context of sustainable development by means of the European Fisheries Fund (hereinafter EFF).

(6) Since the principal objective of this Regulation, namely to further the common fisheries policy, cannot be sufficiently achieved by the Member States given the structural problems encountered in the development of the fisheries sector and the

limits on the financial resources of the Member States in an enlarged Union, and can therefore be better achieved at Community level by providing multi-annual financing focused on the relevant priorities, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve this objective.

(7) The common fisheries policy and therefore the EFF must incorporate the Community's priorities for sustainable development as defined in the conclusions of the Lisbon European Council of 23 and 24 March 2000 and the Gothenburg European Council of 15 and 16 June 2001.

(8) Programming should ensure coordination of the EFF with other funds geared to sustainable development and with the Structural Funds and other Community funds.

(9) The activity of the EFF and the operations it helps to finance should be compatible with other Community policies and comply with all Community legislation.

(10) Action by the Community should be complementary to action carried out by Member States or it should seek to contribute to that action. In order to ensure significant added value partnership should be strengthened. This partnership, with full regard to the national rules and practices of the Member States, concerns regional, local and other public authorities, as well as other appropriate bodies, including those responsible for the environment and for the promotion of equality between men and women, the economic and social partners and other competent bodies. The partners concerned should be involved in the preparation, implementation, monitoring and evaluation of assistance.

(11) Under Article 274 of the Treaty, Member States are to cooperate with the Commission to ensure compliance with the principles of sound financial management. To that end this Regulation specifies the conditions allowing the Commission to exercise its responsibilities for the execution of the general budget of the European Union.

(1) Opinion delivered on 6 July 2005 (not yet published in the Official Journal).
 (2) OJ C 267, 27.10.2005, p. 50. Opinion delivered following non-compulsory consultation.
 (3) OJ C 164, 5.7.2005, p. 31. Opinion delivered following non-compulsory consultation.
 (4) OJ L 358, 31.12.2002, p. 59.

(12) If the activities of the EFF are to be effective and transparent, the responsibilities of the Member States and of the Community should be precisely defined. Those responsibilities should be specified for each stage of programming, monitoring, evaluation and control. Without prejudice to the powers vested in the Commission, implementing and inspecting assistance should be primarily the responsibility of the Member States.

(13) Articles 2 and 3 of the Treaty provide for the elimination of inequalities, and the promotion of equality, between men and women.

(14) The Commission should establish an indicative breakdown of available commitment appropriations using an objective and transparent method, with a significant concentration on the regions covered by the Convergence objective.

(15) The appropriations available under the EFF should be indexed on a flat-rate basis for programming.

(16) In order to strengthen the leverage effect of Community resources by favouring, as far as possible, recourse to private sources of financing and to take better account of the profitability of the operations, the forms of assistance available from the EFF should be diversified and the rates of assistance differentiated with a view to promoting the Community interest, encouraging the use of a wide range of financial resources and limiting the contribution of the EFF by encouraging the use of appropriate forms of assistance.

(17) To reinforce the strategic content of the common fisheries policy in line with the Community's priorities for the sustainable development of fisheries and aquaculture, Member State should adopt, following a dialogue with the Commission, a national strategic plan on all relevant aspects of the common fisheries policy.

(18) In order to address the need for simplification and decentralisation, programming and financial management should be carried out at the level of the operational programme and priority axes alone, with programme complements and Community support frameworks being discontinued.

(19) The programming system should be simplified. To that end the activities of the EFF should take the form of one single operational programme per Member State, in accordance with its national structure. The programming exercise shall cover the period from 1 January 2007 to 31 December 2013.

(20) The adoption by the Council of multi-annual recovery plans and management plans are an absolute priority and should be accompanied by fishing-effort adjustment plans under the EFF.

(21) The non-renewal of a fisheries agreement between the Community and a third country or a substantial cut in fishing opportunities under an international arrangement or other arrangement should also give rise to multi-annual fishing-effort management plans aimed at adjusting the Community fishing fleet to the new situation.

(22) Provisions should be laid down for adjusting fishing effort in connection with the adoption of emergency measures by the Member States or the Commission as provided for in Articles 7 and 8 of Regulation (EC) No 2371/2002.

(23) Provisions should also be laid down for adjusting fishing effort in connection with the adoption of national decommissioning schemes as part of the obligations laid down in Articles 11 to 16 of Regulation (EC) No 2371/2002.

(24) The Community fishing fleet should be adjusted in order to adapt it to the available and accessible resources.

(25) Provisions should be laid down for support for investment on board, in particular to address the need to restructure the Community fishing fleet by supporting fishers and vessel owners to replace engines by new engines with the same or less power.

(26) In addition, specific provisions should be laid down in order to address the specificities of small scale coastal fisheries.

(27) Socio-economic accompanying measures are needed to implement the restructuring of the Community fishing fleet.

(28) Detailed rules should be laid down for granting allowances and financial compensation to fishers and owners of fishing vessels in cases of temporary cessation of fishing activities.

(29) It is vital for the fisheries sector that a sustainable balance be achieved between aquatic resources and their exploitation, having due regard to environmental impact. Appropriate measures should therefore be adopted not only in order to safeguard the food chain but also for aquaculture and the processing industry.

(30) Detailed rules should be laid down for granting aid to aquaculture, inland fishing, processing and marketing of fisheries and aquaculture products, while ensuring that these sectors retain economic viability. For that purpose, it is necessary to identify a limited number of priority objectives for assistance and to focus the structural aid for aquaculture, processing and marketing of fisheries and aquaculture products on micro, small and medium-sized enterprises with priority given to micro and small-sized enterprises.

(31) Measures of common interest with a broader scope than measures normally undertaken by private enterprises should also be supported by the EFF.

(32) There is a need to provide accompanying measures for the common fisheries policy, in particular, by reducing its socio-economic impact by implementing local development strategies for the sustainable development of fisheries areas.

(33) Having regard to the diversity of situations and areas throughout the Community, the policy for the development of fisheries areas should form part of an integrated approach based on an appropriate territorial strategy, be adapted to the local context, be as decentralised as possible, give preference to the participation of actors on the ground, be based on a bottom-up approach, allow small-scale operations and ensure the substantial participation of private sector actors.

(34) By way of technical assistance the EFF should provide support for evaluations, studies and exchanges of experience in order to facilitate the implementation of the operational programme and to promote innovative approaches and practices for simple and transparent implementation.

(35) The implementation of the operations of the EFF by the Member States through shared management should provide sufficient guarantees as to the details and quality of implementation, the results of operations and their evaluation and sound financial management and its supervision.

(36) The effectiveness and impact of the operations of the EFF also depend on improved and more thorough evaluation. The responsibilities of the Member States and the Commission in this regard and the arrangements to ensure the reliability of evaluation should be laid down.

(37) In the interest of a good working partnership and the proper promotion of Community assistance, the broadest possible information and publicity about it should be provided for. The authorities responsible for managing assistance should be responsible for this aspect and for keeping the Commission informed of measures taken.

(38) It is appropriate to establish ceilings for public contribution per operation.

(39) It is also appropriate to establish ceilings for the contribution by the EFF in relation to the total public expenditure per priority axis.

(40) In order to guarantee efficient and correct implementation, the obligations of the Member States should be laid down with regard to management and control systems, the certification of expenditure and the prevention, detection and correc-

tion of irregularities and infringements of Community law. With respect to management and control it is necessary, in particular, to establish the modalities by which Member States give the assurance that the systems are in place and function satisfactorily.

(41) Member States should adopt adequate measures to guarantee the proper functioning of management and control systems. To that end, a managing authority, a certifying authority and an audit authority should be designated for each operational programme and their responsibilities should be specified. These responsibilities should relate primarily to the sound financial implementation, organisation of evaluation, certification of expenditure, audit and compliance with Community law. Provision should be made for regular meetings between the Commission and the national authorities concerned in order to monitor the assistance.

(42) It should be stipulated that the monitoring committee is a body which is appointed by the Member State for the purpose of ensuring the quality of implementation of an operational programme.

(43) Indicators and reports on implementation are essential for monitoring and should be better defined so that they reflect reliably the progress and the quality of the implementation of the operational programme.

(44) Without prejudice to the Commission's existing powers as regards financial control, cooperation between the Member States and the Commission in this field should be reinforced.

(45) The rules and procedures governing commitments and payments should be simplified so that a regular cash flow is ensured. A pre-financing of 7% of the contribution from the EFF would help to speed up the implementation of the operational programme.

(46) In addition to the suspension of payments where a serious deficiency is detected in the management and control systems, there should be measures which allow the authorising officer by delegation to interrupt payments where there is evidence to suggest a significant deficiency in the sound operation of these systems or which allow for the Commission to make a deduction from payments if the Member State concerned has not implemented all remaining measures in a corrective plan of action.

(47) In order to ensure the sound management of Community resources, improvements should be made to the forecasting and implementing of expenditure. To that end Member States should regularly send the Commission their forecasts regarding the use of Community resources and any delays in financial implementation should give rise to repayment of advances and to automatic decommitments.

(48) Procedures for closure should be simplified by offering the possibility to those Member States which so wish, in accordance with the schedule which they select, to partially close their operational programme with respect to the operations completed. The appropriate framework for doing so should be provided.

(49) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾ by the management procedure provided for in Article 4 of that Decision. However, in certain instances and for the sake of efficiency, the consultative procedure provided for in Article 3 of that Decision is the most adequate one.

(50) Detailed transitional provisions should be laid down to allow preparation of new programming immediately upon entry into force of this Regulation and to ensure that assistance to Member States is not interrupted pending the adoption of the operational programme in accordance with this Regulation,

HAS ADOPTED THIS REGULATION:

TITLE I OBJECTIVES AND GENERAL RULES ON ASSISTANCE

CHAPTER I Scope and definitions

Article 1

SCOPE

This Regulation establishes the European Fisheries Fund (hereinafter EFF) and defines the framework for Community support for the sustainable development of the fisheries sector, fisheries areas and inland fishing.

Article 2

GEOGRAPHICAL SCOPE

1. The measures provided for in this Regulation shall apply in the entire territory of the Community.
2. By derogation from paragraph 1, for assistance provided under Chapter IV of Title IV relating to the sustainable development of fisheries areas, Member States shall select the eligible areas on the basis of the criteria laid down in Article 43(3) and (4).

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.
⁽²⁾ OJ L 124, 20.5.2003, p. 36.

Article 3

DEFINITIONS

For the purpose of this Regulation, the following definitions shall apply:

- a) 'fisheries sector': the sector of the economy, including all activities of production, processing and marketing of fisheries and aquaculture products;
- (b) 'fisher': any person engaging in professional fishing on board an operational fishing vessel, as recognised by the Member State;
- (c) 'fishing vessel': any vessel within the meaning of Article 3 point (c) of Regulation (EC) No 2371/2002;
- (d) 'aquaculture': the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment; the organisms remain the property of a natural or legal person throughout the rearing or culture stage, up to and including harvesting;
- (e) 'fisheries area': an area with sea or lake shore or including ponds or a river estuary and with a significant level of employment in the fisheries sector;
- (f) 'micro, small and medium — sized enterprise': a micro, small or medium — sized enterprise as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises ⁽²⁾;
- (g) 'operational programme': the single document drawn up by the Member State and approved by the Commission containing a coherent set of priority axes to be achieved with the aid of the EFF;
- (h) 'programming': the process of organisation, decision-making and financing in several stages intended to implement, on a multi-annual basis, the joint action by the Community and the Member States in order to achieve the priority goals of the EFF;
- (i) 'priority axis': one of the priorities in an operational programme comprising a group of measures which are related and have specific measurable goals;
- (j) 'measure': a set of operations aimed at implementing a priority axis;
- (k) 'operation': a project selected according to criteria laid down by the monitoring committee and implemented by one or more beneficiaries allowing achievement of the goals of the priority axis to which it relates;

(l) 'beneficiary': a natural or legal person who is the ultimate recipient of public aid;

(m) 'public expenditure': any public contribution to the financing of operations whose origin is the budget of the State, of regional and local authorities, of the European Communities and any similar expenditure. Any contribution to the financing of operations whose origin is the budget of public-law bodies or associations of one or more regional or local authorities or public-law bodies acting in accordance with Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽¹⁾ shall be regarded as public contribution;

(n) 'Convergence objective': the objective of the action for the least developed Member States and regions according to Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down the general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ⁽²⁾;

(o) 'Non-Convergence objective': the objective covering the Member States and regions not eligible under the Convergence objective as defined in point (n);

(p) 'intermediate body': any public or private body or service which acts under the responsibility of a managing or certifying authority, or which carries out duties on behalf of such an authority vis-à-vis beneficiaries implementing operations;

(q) 'irregularity': any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget.

CHAPTER II

Objectives and missions

Article 4

OBJECTIVES

Assistance under the EFF shall aim to:

a) support the common fisheries policy so as to ensure exploitation of living aquatic resources and support aquaculture in order to provide sustainability in economic, environmental and social terms;

(b) promote a sustainable balance between resources and the fishing capacity of the Community fishing fleet;

(c) promote a sustainable development of inland fishing;

(d) strengthen the competitiveness of the operating structures and the development of economically viable enterprises in the fisheries sector;

(e) foster the protection and the enhancement of the environment and natural resources where related to the fisheries sector;

(f) encourage sustainable development and the improvement of the quality of life in areas with activities in the fisheries sector;

(g) promote equality between men and women in the development of the fisheries sector and fisheries areas.

Article 5

MISSIONS

Support for the fisheries sector shall be provided by the EFF. The measures implemented under this Regulation shall contribute to attaining the general objectives set out in Article 33 of the Treaty and the objectives defined as part of the common fisheries policy. They shall accompany and supplement, where necessary, other Community instruments and policies.

CHAPTER III

Principles of assistance

Article 6

COMPLEMENTARITY, CONSISTENCY AND COMPLIANCE

1. The EFF shall provide assistance which complements national, regional and local actions, integrating into them the priorities of the Community.

2. The Commission and the Member States shall ensure that assistance from the EFF is consistent with the policies, priorities and activities of the Community and complementary to other financial instruments of the Community. This consistency and complementarity shall be indicated in particular in the operational programme.

3. Operations financed by the EFF shall comply with the provisions of the Treaty and of the acts adopted thereunder.

4. In accordance with their respective responsibilities, the Commission and the Member States shall ensure coordination between assistance from the EFF and the European Agricultural Fund for Rural Development (EAFRD), established by Council Regulation (EC)

(1) OJ L 134, 30.4.2004, p. 114.

(2) OJ L 210, 31.7.2006, p. 25.

No 1290/2005⁽¹⁾, the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund and of other Community financial instruments.

5. Operations financed by the EFF shall not increase fishing effort.

Article 7

STATE AID

1. Without prejudice to paragraph 2 of this Article, Articles 87, 88 and 89 of the Treaty shall apply to aid granted by the Member States to enterprises in the fisheries sector.
2. Articles 87, 88 and 89 of the Treaty shall not apply to financial contributions from Member States to operations co-financed by the EFF and provided as part of an operational programme.
3. National provisions setting up public financing going beyond the provisions of this Regulation concerning financial contributions, as provided for in paragraph 2, shall be treated as a whole on the basis of paragraph 1.

Article 8

PARTNERSHIP

1. The objectives of the EFF shall be pursued within the framework of close cooperation (hereinafter referred to as partnership) between the Commission and the Member State. Member States shall organise, in accordance with the current national rules and practices, a partnership with the authorities and bodies which it designates, such as:

- (a) the competent regional, local and other public authorities;
- (b) the economic and social partners;
- (c) any other appropriate body.

2. Member States shall establish a broad and effective involvement of all the appropriate bodies, in accordance with national rules and practices, taking into account the need to promote equality between men and women and sustainable development through integration of environmental protection and enhancement.

3. The partnership shall be conducted in full compliance with the respective institutional, legal and financial powers of each partner category as defined in paragraph 1.

4. The partnership shall cover the preparation, implementation, monitoring and evaluation of the operational programme.

⁽¹⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

Member States shall involve all appropriate partners in the different stages of programming within the time limit set for each stage.

5. Each Member State shall organise a consultation on the national strategic plan, according to the detailed arrangements that it considers most appropriate.

Article 9

PROPORTIONALITY

1. Implementation of an operational programme shall be the responsibility of the Member State. That responsibility shall be exercised at the appropriate territorial level in accordance with the institutional arrangements of each Member State and this Regulation.

2. The means employed by the Commission and Member States may vary according to the total amount of public expenditure allocated to the operational programme. Such variation shall apply in particular to the means used for evaluation, control, and participation by the Commission in the monitoring committee provided for in Article 63 and for the annual reports on implementation of operational programmes.

Article 10

SHARED MANAGEMENT

1. The Community budget allocated to the EFF shall be implemented within the framework of shared management between the Member States and the Commission, in accordance with Article 53(1)(b) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽²⁾, with the exception of the technical assistance referred to in Article 46(1) of this Regulation which shall be implemented by the Commission within the framework of direct management.

The principle of sound financial management shall be applied in accordance with Article 48(2) of Regulation (EC, Euratom) No 1605/2002.

2. The Commission shall exercise its responsibility for implementing the general budget of the European Union in the following ways:

- (a) the Commission shall check the existence and proper functioning of management and control systems in the Member States in accordance with Articles 70 and 73;
- (b) the Commission shall interrupt the payment deadline or suspend all or part of payments in accordance with Articles 88 and 89, if the national management and control systems fail, and shall apply any other

financial correction required, in accordance with the procedures described in Articles 98 and 99;

- (c) the Commission shall check reimbursement of pre-financing and automatically decommit budget commitments in accordance with Articles 81(2), 90 to 94.

3. The provisions of Title II of part two of Regulation (EC, Euratom) No 1605/2002 shall apply to assistance from the EFF.

Article 11

EQUALITY BETWEEN MEN AND WOMEN

The Member States and the Commission shall ensure that equality between men and women and the integration of the gender perspective are promoted during the various stages of implementation of the EFF, including the design, implementation, monitoring and evaluation.

The Member States shall ensure that operations to enhance the role of women in the fisheries sector are promoted.

CHAPTER IV Financial framework

Article 12

RESOURCES AND CONCENTRATION

1. The resources available for commitments from the EFF for the period 2007 to 2013 shall be EUR 3 849 million at 2004 prices in accordance with the annual breakdown set out in Annex I.

2. 0,8% of the resources referred to in paragraph 1 shall be allocated to technical assistance for the Commission as defined in Article 46(1).

3. For the purpose of programming and subsequent inclusion in the general budget of the European Union, the amounts referred to in paragraph 1 shall be indexed at 2% per year.

4. The breakdown of budgetary resources provided for in paragraph 1 and not allocated in accordance with paragraph 2 shall be such as to achieve a significant concentration on the regions eligible under the Convergence objective.

Article 13

MAXIMUM LEVEL OF TRANSFERS

1. In order to contribute to the objectives of adequately concentrating cohesion funding on the least developed regions and Member States and reducing disparities in average per capita aid intensities resulting from capping, the maximum lev-

el of transfer from the Funds referred to in paragraph 2 to each individual Member State pursuant to this Regulation shall be as follows:

- for Member States whose average 2001-2003 GNI per capita (PPS) is under 40% of the EU-25 average: 3,7893% of their GDP
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 40% and below 50% of the EU-25 average: 3,7135% of their GDP
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 50% and below 55% of the EU-25 average: 3,6188% of their GDP
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 55% and below 60% of the EU-25 average: 3,5240% of their GDP
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 60% and below 65% of the EU-25 average: 3,4293% of their GDP
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 65% and below 70% of the EU-25 average: 3,3346% of their GDP
- for Member States whose average 2001-2003 GNI per capita (PPS) is equal to or above 70% and below 75% of the EU-25 average: 3,2398% of their GDP
- thereafter, the maximum level of transfer is reduced by 0,09 percentage point of GDP for each increment of 5 percentage points of average 2001-2003 per capita GNI (PPS) as compared to the EU-25 average.

2. The ceilings referred to in paragraph 1 include the total annual allocations from the EFF for any Member State pursuant to this Regulation, and from the ERDF, the ESF and the Cohesion Fund pursuant to Regulation (EC) No 1083/2006 including the contribution from the ERDF to the financing of the cross-border strand of the European Neighbourhood and Partnership Instrument and of the Instrument for Pre-Accession Assistance and from the part of the EAFRD originating from the Guidance Section of the European Agricultural Guidance and Guarantee Fund.

3. Calculations of GDP by the Commission shall be based on the statistics published in April 2005. Individual national growth rates of GDP for 2007-2013, as projected by the Commission in April 2005, shall be applied for each Member State separately.

Article 14

FINANCIAL DISTRIBUTION

The Commission shall make an annual indicative breakdown by Member State of the commitment appropriations available for

the programming period 2007 to 2013, while separating out the share contributing to the Convergence objective, using the following objective criteria:

- (a) the size of the fisheries sector in the Member State,
- (b) the scale of adjustment needed to the fishing effort,
and
- (c) the level of employment in the fisheries sector,

while taking account of particular situations and needs and past commitment appropriations.

TITLE II STRATEGIC APPROACH

CHAPTER I National strategic plan

Article 15

NATIONAL STRATEGIC PLAN

1. Each Member State shall adopt, following an appropriate consultation with the partners, a national strategic plan covering the fisheries sector and submit it to the Commission at the latest when submitting the operational programme.

The national strategic plan shall be the subject of a dialogue between the Member State and the Commission.

2. The national strategic plan shall contain, where relevant to the Member State, a summary description of all aspects of the common fisheries policy, and set out the priorities, objectives, the estimated public financial resources required and deadlines for its implementation with particular regard to the strategy for:

- (a) the management and adjustment of the Community fishing fleet and, in particular, the adjustment of fishing effort and capacity with regard to the evolution of fisheries resources, the promotion of environmentally-friendly fishing methods and a sustainable development of fishing activities;
- (b) the sustainable development of the aquaculture sector;
- (c) the sustainable development of the processing and marketing of fisheries and aquaculture products;
- (d) the sustainable development of inland fishing;
- (e) the sustainable development of fisheries areas, including the criteria for targeting the priority areas;

(f) the competitiveness of the fisheries sector, including the improvement of its structure, organisation and its working environment;

(g) preserving human resources in the fisheries sector, in particular through upgrading professional skills, securing sustainable employment and enhancing the position and the role of women;

(h) the protection and enhancement of the aquatic environment related to the fisheries sector.

3. In addition, the national strategic plan shall contain, where relevant to the Member State, additional appropriate information on the priorities, objectives, the estimated public financial resources required and deadlines with particular regard to the strategy for:

(a) meeting the requirements for inspection and control of fishing activities and data and information collection on the common fisheries policy;

(b) the supply of fisheries products and the development of fishing activities outside Community waters.

CHAPTER II Strategic follow up

Article 16

STRATEGIC DEBATE

1. By 31 December 2011, the Commission shall organise a debate with Member States on the content and the progress of the implementation of the national strategic plans, on the basis of written information submitted by Member States, with a view to encourage the exchange of best practice among Member States.

2. The Commission shall inform the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the outcome of the debate referred to in paragraph 1.

TITLE III PROGRAMMING

CHAPTER I General provisions on the EFF

Article 17

PREPARATION AND APPROVAL OF THE OPERATIONAL PROGRAMME

1. Each Member State shall draw up an operational programme to implement the policies and priorities to be co-financed by the EFF. The operational programme shall be coherent with the national strategic plan.
2. The activities of the EFF shall take the form of one single operational programme per Member State, in accordance with its national structure.
3. The Member State shall draw up its operational programme upon completion of close consultations with the regional, local, economic and social partners in the fisheries sector and all other appropriate bodies, in accordance with its national structure and the partnership provided for in Article 8.
4. The Member State shall submit a proposal for an operational programme to the Commission containing all the components referred to in Article 20, in due time to allow its adoption as soon as possible.
5. The Commission shall appraise the proposed operational programme to determine whether it contributes to the objectives set out in Article 4, the guiding principles set out in Article 19 and the relevant part of the national strategic plan, taking into account the ex ante evaluation referred to in Article 48.

When the Commission, within two months following the receipt of the proposed operational programme, considers that the programme is not coherent with the objectives set out in Article 4, the guiding principles set out under Article 19 or the relevant part of the national strategic plan, it may request the Member State to provide all necessary additional information and, where appropriate, to adapt the proposed programme accordingly.

6. Thereafter, the Member State shall submit its operational programme to the Commission which shall adopt a decision approving it as soon as possible but no later than four months after the submission.

Article 18

DURATION AND REVISION OF THE OPERATIONAL PROGRAMME

1. The operational programme shall cover the period between 1 January 2007 and 31 December 2013.
2. The operational programme may be re-examined where a major difficulty has arisen in its implementation or if there have been significant strategic changes or for reasons of sound management and, if necessary, revised for the rest of the period on the initiative of the Member State or the Commission, in agreement with the Member State concerned, after approval by the monitoring committee provided for in Article 63.

A revision shall take into account, in particular, the interim evaluation, the annual reports on implementation and the annual examinations provided for in Article 49, Article 67 and Article 69 respectively and important changes to the common fisheries policy.

3. The Commission shall adopt its decision on a request for revision of the operational programme as soon as possible but not later than two months after the submission of the request by the Member State, provided that the content of the revised operational programme is in accordance with Article 20. Detailed rules shall be defined in accordance with the procedure referred to in Article 101(3).

Article 19

GUIDING PRINCIPLES FOR THE OPERATIONAL PROGRAMME

In the preparation of the operational programme provided for in Article 17 and the implementation of the operational programme, Member States shall take into account the following guiding principles:

- (a) consistency with the principles of the common fisheries policy and the national strategic plan in order to achieve, in particular, a stable and enduring balance between fishing capacity and fishing opportunities;
- (b) enhancement of a harmonious, balanced and sustainable development of economic activities, jobs and human resources, as well as protection and the improvement of the environment;
- (c) an appropriate allocation of the available financial resources between the priority axes and, particularly, where relevant, an appropriate level of financing for operations under Chapter I of Title IV (Priority axis 1: measures for the adaptation of the Community fishing fleet);
- (d) promotion of the operations contributing to the Lisbon strategy;

Operations aiming at promoting a sustainable level of employment in the fisheries sector in particular through enhancing the quality of jobs, providing access to the profession for young people and stimulating innovation throughout the sector shall be encouraged;

- (e) promotion of the operations contributing to the Gothenburg strategy and particularly those enhancing the environmental dimension in the fisheries sector;

Operations aiming at reducing the impact of activities in the fisheries sector on the environment and promoting environmentally friendly production methods shall be encouraged;

(f) improvement of the situation of the human resources in the fisheries sector through operations aiming at upgrading and diversifying professional skills, developing lifelong learning and improving working conditions and safety;

(g) encouragement of operations with high added value through the development of innovative capacities that provide for high quality standards and meet consumer needs for fisheries and aquaculture products;

Operations promoting transparency of environmentally friendly production methods to consumers shall be encouraged;

(h) contribution to a better supply to, and to a sustainable development of, the community market of fisheries and aquaculture products;

(i) promotion, during the various stages of the implementation of the operational programme, of gender balance in the fisheries sector through operations aiming, in particular, at reducing gender based segregation in the labour market;

(j) promotion of an integrated sustainable development of the fisheries areas by fostering their inherent potential and improving quality of life;

(k) where relevant, improvement of the institutional and administrative capacities aiming at a good governance of the common fisheries policy and an efficient implementation of the operational programme.

Article 20

CONTENT OF THE OPERATIONAL PROGRAMME

1. The operational programme shall contain:

(a) a synthesis of the situation of the policy areas eligible for support in terms of strengths and weaknesses;

(b) a description and a justification of the priority axes chosen, having regard to the relevant part of the national strategic plan and the guiding principles set out under Article 19, as well as the expected impact resulting from the ex ante evaluation referred to in Article 48;

(c) specific targets set for each priority axis. Those targets shall be quantified, where they lend themselves to quantification, using a limited number of indicators taking into account the principle of proportionality. The indicators must make it possible to measure progress in relation to the baseline situation and the effectiveness of the specific targets set for each priority axis;

(d) a summary description of the principal measures envisaged for implementing the priority axes;

(e) information on complementarity with the measures under the EAFRD, the Structural Funds and the Cohesion Fund, where relevant;

(f) a financing plan containing two tables, each showing separately, where relevant, the appropriations earmarked for the Convergence objective and the Non-Convergence objective:

(i) a table breaking down for each year the amount of the total financial allocation envisaged for the contribution from the EFF;

(ii) a table specifying, for the whole programming period and for each priority axis, the amount of the financial allocation envisaged for the Community contribution and the national public contributions, the rate of contribution from the EFF for each priority axis and the amount allocated to technical assistance;

(g) the implementing provisions for the operational programme, including:

(i) designation by the Member State of the entities provided for in Article 58;

(ii) a description of evaluation and monitoring systems as well as the composition of the monitoring committee provided for in Article 63;

(iii) information about the competent body for receiving the payments made by the Commission and the body or bodies responsible for making payments to the beneficiaries;

(iv) a definition of procedures for mobilisation and circulation of financial flows in order to ensure their transparency;

(v) the elements aiming at ensuring the information and publicity of the operational programme as referred to in Article 51;

(vi) a description of the procedures agreed between the Commission and the Member State for the exchange of computerised data to meet the payment, monitoring and evaluation requirements laid down by this Regulation;

(h) information on the application of Article 8.

2. For each of the priority axes provided for in Title IV, the Member State shall determine in its operational programme the conditions and procedures for their application. The programme shall in particular indicate clearly the purpose of each priority axis planned.

TITLE IV PRIORITY AXES

CHAPTER I

Priority axis 1: measures for the adaptation of the Community fishing fleet

Article 21

SCOPE

Support from the EFF targeting the adaptation of the Community fishing fleet shall concern:

(a) public aid for owners of fishing vessels and fishers affected by fishing effort adjustment plans where these form part of the following:

- (i) recovery plans as referred to in Article 5 of Regulation (EC) No 2371/2002;
- (ii) emergency measures as referred to in Articles 7 and 8 of Regulation (EC) No 2371/2002;
- (iii) the non-renewal of a fisheries agreement between the Community and a third country or a substantial cut in fishing opportunities under an international agreement or other arrangement;
- (iv) management plans as referred to in Article 6 of Regulation (EC) No 2371/2002;
- (v) measures as referred to in Articles 9 and 10 of Regulation (EC) No 2371/2002;
- (vi) national decommissioning schemes as part of the obligations laid down in Articles 11 to 16 of Regulation (EC) No 2371/2002 on the adjustment of fishing capacity of the Community fishing fleet;

(b) public aid for temporary cessation of fishing activities in accordance with Article 24(1)(vii);

(c) investments on board fishing vessels and selectivity in accordance with Article 25;

(d) public aid for small-scale coastal fishing in accordance with Article 26;

(e) socio-economic compensation for the management of the Community fishing fleet in accordance with Article 27;

(f) public aid in the framework of rescue and restructuring plans in accordance with the Community Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽¹⁾.

Article 22

CONTENT OF FISHING EFFORT ADJUSTMENT PLANS

1. Each Member State shall lay down in its national strategic plan its policy for adjusting fishing effort, with a view to fulfil the obligations laid down in Article 11(1) of Regulation (EC) No 2371/2002. It shall accord priority to the financing of the operations referred to in Article 21(a)(i).

2. Fishing effort adjustment plans may include all the relevant measures provided for in this Chapter.

3. In the cases provided for in Article 21(a)(i), (ii) and (iv), the fishing effort adjustment plans shall be adopted by the Member States within six months following the date of the Council or Commission decision.

In the cases provided for in Article 21(a)(iii), the Member States shall adopt the fishing effort adjustment plans for the fishing vessels and fishers affected, within six months following the notification by the Commission.

4. Each year the Member States shall communicate in the annual and final reports on implementation referred to in Article 67 the results achieved in implementing their fishing effort adjustment plans. The results shall be measured using the relevant indicators defined in the operational programmes.

Article 23

PUBLIC AID FOR PERMANENT CESSATION OF FISHING ACTIVITIES

1. The EFF shall contribute to financing of the permanent cessation of fishing activities of fishing vessels, provided that such cessation forms part of a fishing effort adjustment plan referred to in Article 21(a). The permanent cessation of fishing activities of a fishing vessel may be achieved only by:

- (a) the scrapping of the fishing vessel;
- (b) its reassignment, under the flag of a Member State and registered in the Community for activities outside fishing;
- (c) its reassignment for the purpose of the creation of artificial reefs. Member States shall ensure that such operations are preceded by an environmental impact assessment and contribute to the objectives referred to in Article 38(2)(a).

Public aid for permanent cessation of fishing activities paid to the owners of fishing vessels shall apply to the vessel's fishing capacity and, where appropriate, to the fishing licence associated with it.

⁽¹⁾ OJ C 244, 1.10.2004, p. 2.

2. The permanent cessation of fishing activities of fishing vessels shall be programmed in the form of national decommissioning schemes which shall not exceed two years from the date of their entry into force.

3. To facilitate the implementation of fishing effort adjustment plans, the Member States may make public calls for tenders or calls for proposals.

The Member States may also set the level of public aid taking into account the best cost/effectiveness ratio on the basis of objective criteria, such as:

- (a) the price of the fishing vessel recorded on the national market or its insurance value;
- (b) the turnover of the fishing vessel;
- (c) the age of the fishing vessel and its tonnage expressed in GT or engine power expressed in kW.

Article 24

PUBLIC AID FOR TEMPORARY CESSATION OF FISHING ACTIVITIES

1. The EFF may contribute to the financing of aid measures for the temporary cessation of fishing activities for fishers and the owners of fishing vessels for a maximum duration, during the period 2007 to 2013, of:

- (i) 12 months, which may be extended by up to 12 months, in the context of the fishing effort adjustment plans referred to in Article 21(a)(i);
- (ii) three months in the event of Member States emergency measures as referred to in Article 8 of Regulation (EC) No 2371/2002, in the context of the fishing effort adjustment plans referred to in Article 21(a)(ii);
- (iii) six months in the event of Commission emergency measures as referred to in Article 7 of Regulation (EC) No 2371/2002, in the context of the fishing effort adjustment plans referred to in Article 21(a)(ii);
- (iv) six months, which may be extended by up to six months, in the context of the fishing effort adjustment plans referred to in Article 21(a)(iii);
- (v) eight months, in the context of the fishing effort adjustment plans referred to in Article 21(a)(iv), and of management plans adopted at national level within the framework of Community conservation measures, and where such plans provide for gradual reductions of fishing effort;
- (vi) three months, in the context of rescue and restructuring plans referred to in Article 21(f) during the period of replacement of engines;

(vii) six months, in the event of a natural disaster, closures of fisheries decided by Member States for reasons of public health or other exceptional occurrence which is not the result of resource conservation measures.

2. The financial contribution from the EFF to the measures referred to in points (i) to (vi) of paragraph 1 per Member State for the entire period 2007 to 2013 may not exceed the higher of the following two thresholds: EUR 1 million or 6% of the Community financial assistance allocated to the sector in the Member State concerned.

However, these thresholds may be exceeded in accordance with the procedure referred to in Article 101(3).

3. A recurrent seasonal suspension of fishing shall not be taken into account for the grant of allowances or payments under this Regulation.

Article 25

INVESTMENTS ON BOARD FISHING VESSELS AND SELECTIVITY

1. The EFF may contribute to the financing of equipment and the modernisation of fishing vessels of five years of age or more only under the conditions of this Article and in accordance with the provisions of Chapter III of Regulation (EC) 2371/2002.

2. Such investments may concern improvements of safety on board, working conditions, hygiene, product quality, energy efficiency and selectivity, provided that it does not increase the ability of the vessels to catch fish.

No aid shall be granted for the construction of fishing vessels nor for the increase of fishholds.

3. The EFF may contribute to one replacement of the engine per vessel, provided that:

- (a) for vessels as defined in Article 26(1) the new engine has the same power as the old one or less;
- (b) for vessels up to 24 metres in overall length other than those referred to in point (a), the new engine has at least 20% less power than the old one;
- (c) for trawlers of more than 24 metres in overall length, the new engine has at least 20% less power than the old one, the vessel is subject to a rescue and restructuring plan as referred to in Article 21(f) and changes to a less fuel-intensive fishing method.

4. The reduction of engine power referred to in paragraph 3(b) and (c) may be achieved by a group of vessels for each category of vessels referred to in points (b) and (c) of that paragraph.

5. The conditions for the implementation of the operations provided for in paragraph 4 may be set out in accordance with the procedure referred to in Article 101(3).

6. The EFF may contribute to the financing of equipment and modernisation works:

- (a) making it possible for catches the discarding of which is no longer authorised to be kept on board;
- (b) as part of projects covering the preparation or trial of new technical measures for a limited period to be set by the Council or the Commission;
- (c) for reducing the impact of fishing on non-commercial species;
- (d) for reducing the impact of fishing on ecosystems and the sea bottom;
- (e) for the protection of catches and gear from wild predators, including through changes to the material of parts of fishing gear, provided that it does not increase fishing effort or undermine the selectivity of the fishing gear and that all appropriate measures are introduced to avoid physically damaging the predators.

7. The EFF may contribute to the financing of investments to achieve the selectivity of fishing gear, including up to two replacements of fishing gear over the entire period 2007 to 2013, provided that:

- (a) the fishing vessel concerned is affected by a fishing effort adjustment plan as referred to in Article 21(a)(i), is changing its fishing method and is leaving the fishery concerned to go to another fishery where the state of the resource makes fishing possible,
- or
- (b) the new gear is more selective and meets recognised environmental criteria and practices which go beyond existing regulatory obligations under Community law.

8. The EFF may contribute to the funding of the first replacement of fishing gear:

- (a) for the purpose of guaranteeing compliance with new technical requirements on selectivity under Community law. Aid may be granted until the date when such requirements become mandatory or exceptionally for a short period after that date which may be fixed by the Community law concerned;
- (b) for reducing the impact of fishing on non-commercial species.

Article 26

SMALL-SCALE COASTAL FISHING

1. For the purpose of this Article, 'small-scale coastal fishing' means fishing carried out by fishing vessels of an overall length of less than 12 metres and not using towed gear as listed in Table 3 in Annex I of Commission Regulation (EC) No 26/2004 of 30 December 2003 regarding the fishing vessels register of the Community ⁽¹⁾.

2. Where the EFF provides financing for measures under Article 25 in favour of small-scale coastal fishing the private financial participation rate shown in Group 2 of the Table in Annex II may be reduced by 20 percentage points.

3. The EFF may contribute to the financing of socio-economic measures provided for under Article 27 in favour of small-scale coastal fishing.

4. The EFF may contribute to the payment of premiums for fishers and owners of fishing vessels involved in small-scale coastal fishing in order to:

- (a) improve management and control of access conditions to certain fishing areas;
- (b) promote the organisation of the production, processing and marketing chain of fisheries products;
- (c) encourage voluntary steps to reduce fishing effort for the conservation of resources;
- (d) encourage the use of technological innovations (more selective fishing techniques which go beyond existing regulatory obligations under Community law or innovations to protect the gear and catches from predators) that do not increase fishing effort;
- (e) improve professional skills and safety training.

Article 27

SOCIO-ECONOMIC COMPENSATION FOR THE MANAGEMENT OF THE COMMUNITY FISHING FLEET

1. The EFF may contribute to the financing of socio-economic measures proposed by Member States for fishers affected by developments in fishing and which involve:

- (a) the diversification of activities with a view to promoting multiple jobs for fishers;
- (b) upgrading professional skills in particular for young fishers;
- (c) schemes for retraining in occupations outside sea fishing;
- (d) early departure from the fishing sector, including early retirement;

⁽¹⁾ OJ L 5, 9.1.2004, p. 25.

(e) non-renewable compensation to fishers who have worked on board a vessel for at least 12 months as fishers, provided the fishing vessel on which the beneficiaries have worked has been the object of permanent cessation of fishing activities within the meaning of Article 23. This compensation shall be refunded on a *pro rata temporis* basis where the beneficiaries return to their work as fishers within a period of less than one year after receiving it.

2. The EFF may contribute to individual premiums to fishers younger than 40 years who can demonstrate that they have worked at least five years as fishers or have equivalent professional training and who acquire for the first time part or total ownership of a fishing vessel of less than 24 metres in overall length which is equipped to go fishing at sea and is between 5 to 30 years old.

3. The premium shall not exceed 15% of the cost of acquisition of ownership nor exceed the amount of EUR 50 000.

4. The conditions set out in paragraphs (1)(e) and (2) may be modified in accordance with the procedure referred to in Article 101 (3).

CHAPTER II

Priority axis 2: aquaculture, inland fishing, processing and marketing of fishery and aquaculture products

Article 28

SCOPE OF INTERVENTION IN AQUACULTURE PRODUCTION

1. Support for targeting aquaculture production may be granted for the following:

- (a) measures for productive investments in aquaculture;
- (b) aqua-environmental measures;
- (c) public health measures;
- (d) animal health measures.

2. Transfer of ownership of a business shall not be eligible for Community aid.

3. Support under paragraph 1 may contribute to lifelong learning.

4. With regard to operations provided for under Articles 29, 31 and 32 when realised for the purpose of guaranteeing com-

pliance with standards under Community law on the environment, human or animal health, hygiene or animal welfare, aid may be granted until the date on which the standards become mandatory for the enterprises.

5. Member States shall ensure that adequate mechanisms exist to avoid counterproductive effects, particularly the risk of creating surplus production capacity or adversely affecting the policy for conservation of fishing resources.

6. For operations provided for in Annex II of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ⁽¹⁾, aid shall be granted only when the information laid down in Annex IV of that Directive has been provided.

Article 29

MEASURES FOR PRODUCTIVE INVESTMENTS IN AQUACULTURE

1. The EFF may support investments in the construction, extension, equipment and modernisation of production installations, in particular with a view to improving working conditions, hygiene, human or animal health and product quality, reducing negative impact or enhancing positive effects on the environment. Investments shall contribute to one or more of the following objectives:

- (a) diversification towards new species and production of species with good market prospects;
- (b) implementation of aquaculture methods substantially reducing negative impact or enhancing positive effects on the environment when compared with normal practice in the aquaculture sector;
- (c) support for traditional aquaculture activities important for preserving and developing both the economic and social fabric and the environment;
- (d) support for the purchase of equipment aiming at protecting the farms from wild predators;
- (e) improvement of the working and safety conditions of aquaculture workers.

2. Investment aid shall be limited to:

- (a) micro, small and medium-sized enterprises,
- and
- (b) enterprises that are not covered by the definition in Article 3(f), with less than 750 employees or with a turnover of less than EUR 200 million.

3. By way of derogation from paragraph 2, in the outermost regions and the outlying Greek islands, aid may be granted to all enterprises.

⁽¹⁾ OJ L 175, 5.7.1985, p. 40. Directive as last amended by Directive 2003/35/EC of the European Parliament and of the Council (OJ L 156, 25.6.2003, p. 17).

4. Member States shall ensure that priority is given to micro and small-sized enterprises.

Article 30

AQUA-ENVIRONMENTAL MEASURES

1. The EFF may support granting compensation for the use of aquaculture production methods helping to protect and improve the environment and to conserve nature.

2. The purpose of the support is to promote:

- (a) forms of aquaculture comprising protection and enhancement of the environment, natural resources, genetic diversity, and management of the landscape and traditional features of aquaculture zones;
- (b) participation in the Community eco-management and audit scheme created by Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) ⁽¹⁾;
- (c) organic aquaculture within the meaning of Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽²⁾;
- (d) sustainable aquaculture compatible with specific environmental constraints resulting from the designation of NATURA 2000 areas in accordance with Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽³⁾.

3. In order to receive compensation under this Article, beneficiaries of compensation must commit themselves for a minimum of five years to aqua-environmental requirements which go beyond the mere application of normal good aquaculture practice. For the support provided for under paragraph 2(a), the environmental benefits of such commitments must be demonstrated by a prior assessment conducted by competent bodies designated by the Member State.

4. Member States shall calculate compensation on the basis of one or more of the following criteria:

- (a) the loss of revenue incurred;
- (b) the additional cost which may result from the application of aqua-environmental methods;
- (c) the need to provide financial support for carrying out the project;
- (d) the specific disadvantages or investment costs for units located inside or near NATURA 2000 areas.

5. A one-off compensation shall be allocated:

- (a) under paragraph 2(a), on the basis of a maximum amount per hectare of the area of the enterprise to which aqua-environmental commitments apply;
- (b) under paragraph 2(c), for a maximum of two years during the period of the conversion of the enterprise to organic production;
- (c) under paragraph 2(d), for a maximum of two years subsequent to the date of the decision establishing the NATURA 2000 area and only for aquaculture units existing prior to that decision.

Article 31

PUBLIC HEALTH MEASURES

The EFF may contribute to compensation to mollusc farmers for the temporary suspension of harvesting of farmed mollusc. The compensation may be granted where contamination of molluscs owing to the proliferation of toxin-producing plankton or the presence of plankton containing biotoxins entails, for public health protection reasons, suspension of the harvest:

- for more than four months consecutively;
- or
- where the loss suffered as a result of suspension of the harvest amounts to more than 35% of the annual turnover of the business concerned, calculated on the basis of the average turnover of the business over the preceding three years.

The maximum duration for which compensation may be granted shall be 12 months over the entire programming period.

Article 32

ANIMAL HEALTH MEASURES

The EFF may contribute to the financing of the control and eradication of diseases in aquaculture under the terms of Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽⁴⁾.

Article 33

INLAND FISHING

1. For the purpose of this Article 'inland fishing' means fishing carried out for commercial purposes by vessels operating exclusively in inland waters or by other devices used for ice fishing.

(1) OJ L 114, 24.4.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 196/2006 (OJ L 32, 4.2.2006, p. 4).

(2) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 780/2006 (OJ L 137, 25.5.2006, p. 9).

(3) OJ L 206, 22.7.1992, p. 7. Directive as last amended by Regulation of the European Parliament and of the Council (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

(4) OJ L 224, 18.8.1990, p. 19. Decision as last amended by Decision 2006/53/EC (OJ L 29, 2.2.2006, p. 37).

2. Support for inland fishing may cover investments for the construction, extension, equipment and modernisation of inland fishing facilities, with a view to improving safety, working conditions, hygiene and product quality, human or animal health, or to reducing negative or having beneficial impact on the environment.

Investments on board vessels may be supported in accordance with the relevant provisions laid down in Article 25.

3. The EFF may support the reassignment of vessels operating in inland fishing to other activities outside fishing. National authorities shall take the appropriate measures to ensure that vessels receiving assistance from the EFF under this paragraph shall not return to operate in fishing.

4. Where measures for the recovery of species occurring in inland waters are provided for in a Community legal act, the EFF may grant support for measures for the temporary cessation of inland fishing activities for fishers and the owners of vessels operating exclusively in inland waters. Support shall be limited to a maximum total duration of 12 months over the entire programming period for the vessels concerned.

5. Transfer of ownership of a business shall not be eligible for Community aid.

6. Without prejudice to the provisions of paragraphs 3 and 4, permanent or temporary cessation of fishing activities and construction of vessels operating in inland waters shall not be eligible for assistance.

7. Investments shall not be eligible for assistance if they are likely to jeopardize the equilibrium between the fleet size and the corresponding fish resources available.

8. The management authority shall take all measures necessary in order to ensure that vessels receiving financial assistance from the EFF under this Article shall continue to operate exclusively in inland waters.

Article 34

INVESTMENTS IN PROCESSING AND MARKETING

1. The EFF may support investments in processing and marketing of fisheries and aquaculture products.

2. Transfer of ownership of a business shall not be eligible for Community aid.

3. The EFF may also support lifelong learning.

4. Investments shall not be eligible for assistance where they concern fisheries and aquaculture products intended to be

used and processed for purposes other than human consumption, with the exception of investments exclusively for the treatment, processing and marketing of fisheries and aquaculture product waste.

5. Where operations are realised for the purpose of guaranteeing compliance with the standards under Community law on the environment, human or animal health, hygiene or animal welfare, aid may be granted until the date on which the standards become mandatory for the enterprises.

Article 35

ELIGIBLE MEASURES IN PROCESSING AND MARKETING

1. The EFF may support the construction, extension, equipment and modernisation of enterprises while concentrating, in particular, on achieving one or more of the following objectives:

- (a) improving working conditions;
- (b) improving and monitoring public health and hygiene conditions or product quality;
- (c) producing high quality products for niche markets;
- (d) reducing negative impacts on the environment;
- (e) improving the use of little-used species, by-products and waste;
- (f) producing or marketing new products, applying new technologies, or developing innovative production methods;
- (g) marketing products mainly originating from local landings and aquaculture.

2. Investments shall aim overall to promote sustainable employment in the fisheries sector.

3. Investment aid shall be limited to:

- (a) micro, small and medium-sized enterprises,
and
- b) enterprises that are not covered by the definition in Article 3(f), with less than 750 employees or with a turnover of less than EUR 200 million.

4. By way of derogation from paragraph 3, in the outermost regions and the outlying Greek islands, aid may be granted to all enterprises.

5. Member States shall ensure that priority is given to micro and small-sized enterprises.

6. Community aid shall not be granted to investments relating to the retail trade.

CHAPTER III

**Priority axis 3:
measures of common interest***Article 36***SCOPE OF INTERVENTION**

1. The EFF may support measures of common interest with a broader scope than measures normally undertaken by private enterprises and which help to meet the objectives of the common fisheries policy.
2. These measures may concern:
 - (a) collective actions;
 - (b) protection and development of aquatic fauna and flora;
 - (c) fishing ports, landing sites and shelters;
 - (d) development of new markets and promotional campaigns;
 - (e) pilot projects;
 - (f) modification for reassignment of fishing vessels.

*Article 37***COLLECTIVE ACTIONS**

The EFF may support measures of common interest which are implemented with the active support of operators themselves or by organisations acting on behalf of producers or other organisations recognised by the Member State and which aim, in particular, to:

- (a) contribute sustainably to better management or conservation of resources;
- (b) promote selective fishing methods or gears and reduction of by-catches;
- (c) remove lost fishing gear from the sea bed in order to combat ghost fishing;
- (d) improve working conditions and safety;
- (e) contribute to the transparency of markets in fisheries and aquaculture products including traceability;
- (f) improve quality and food safety;
- (g) develop, restructure or improve aquaculture sites;
- (h) investments concerning production, processing or marketing equipment and infrastructure including for waste treatment;

- (i) upgrade professional skills, or develop new training methods and tools;
- (j) promote partnership between scientists and operators in the fisheries sector;
- (k) networking and exchange of experience and best practice among organisations promoting equal opportunities between men and women and other stakeholders;
- (l) contribute to the objectives laid down for small-scale coastal fishing in Article 26(4);
- (m) improve management and control of access conditions to fishing areas, in particular through the drawing up of local management plans approved by the competent national authorities;
- (n) create producer organisations recognised under Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, their restructuring and the implementation of their plans to improve quality;
- (o) carry out feasibility studies relating to promotion of partnerships with third countries in the fisheries sector.

Aid referred to in point (n) shall be granted for a maximum of three years following the date of recognition or following the date of the decision on restructuring of the producer organisation and shall be degressive over these three years.

*Article 38***MEASURES INTENDED TO PROTECT AND DEVELOP
AQUATIC FAUNA AND FLORA**

1. The EFF may support measures of common interest intended to protect and develop aquatic fauna and flora while enhancing the aquatic environment.
2. These measures shall relate to:
 - (a) the construction or installation of static or movable facilities intended to protect and develop aquatic fauna and flora,
or
 - (b) the rehabilitation of inland waters, including spawning grounds and migration routes for migratory species,
or

(1) OJ L 17, 21.1.2000, p. 22. Regulation as last amended by the 2003 Act of Accession.

- (c) the protection and enhancement of the environment in the framework of NATURA 2000 where its areas directly concern fishing activities, excluding operational costs.

Direct restocking shall not be eligible for aid, unless explicitly foreseen as a conservation measure by a Community legal act.

3. The action must be implemented by public or semi-public bodies, recognised trade organisations or other bodies appointed for that purpose by the Member State.

Article 39

FISHING PORTS, LANDING SITES AND SHELTERS

1. The EFF may support investments in existing public or private fishing ports, which are of interest to fishers and aquaculture producers using them, with the aim of improving the services offered.

The EFF may also support investments to restructure landing sites and to improve the conditions for fish landed by coastal fishers in existing fish landing sites designated by the competent national authorities.

2. The investments shall relate, in particular, to:
- (a) improving the conditions under which fisheries and aquaculture products are landed, processed, stored in the ports and auctioned;
 - (b) the provision of fuel, ice, water and electricity;
 - (c) repair equipment and the maintenance of fishing vessels;
 - (d) construction, modernisation and extension of quays improving safety during landing or loading;
 - (e) computerised management of fishing activities;
 - (f) improving safety and working conditions;
 - (g) the storage and treatment of waste;
 - (h) measures to reduce discards.
3. In order to improve the safety of fishers, the EFF may also support safety related investments for the construction or modernisation of small fishing shelters.

Article 40

DEVELOPMENT OF NEW MARKETS AND PROMOTIONAL CAMPAIGNS

1. The EFF may support measures of common interest intended to implement a policy of quality and value enhance-

ment, development of new markets or promotional campaigns for fisheries and aquaculture products.

2. The operations may not be aimed at commercial brands or make reference to specific countries or geographical areas, except in case of products recognised under the terms of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾.

3. The measures shall, in particular, relate to:
- (a) conducting regional, national or transnational promotion campaigns for fisheries and aquaculture products;
 - (b) the supply to the market of surplus or underexploited species which are normally discarded or of no commercial interest;
 - (c) implementation of a quality policy for fisheries and aquaculture products;
 - (d) promotion of products obtained using methods with low impact on the environment;
 - (e) promotion of products recognised under the terms of Regulation (EC) No 510/2006;
 - (f) quality certification, including label creation and the certification of products caught or farmed using environmentally friendly production methods;
 - (g) campaigns to improve the image of fisheries and aquaculture products and the image of the fisheries sector;
 - (h) implementation of market surveys.

Article 41

PILOT PROJECTS

1. The EFF may support pilot projects, including the experimental use of more selective fishing techniques, aimed at acquiring and disseminating new technical knowledge and carried out by an economic operator, a recognised trade association or any other competent body designated for that purpose by the Member State, in partnership with a scientific or technical body.

2. The pilot projects provided for in the paragraph 1 may:
- (a) test, under near-actual conditions in the production sector, the technical or economic viability of an innovative technology with the aim of acquiring and disseminating technical or economic knowledge of the technology tested;
 - (b) enable tests to be carried out on management plans and fishing effort allocation plans, including, if neces-

sary, the establishment of no-fishing zones, in order to evaluate the biological and financial consequences, and experimental restocking;

- (c) develop and test methods to improve gear selectivity, reduce by-catches, discards or the impact on the environment, in particular on the sea bottom;
- (d) test alternative types of fishing management techniques.

A pilot project shall always include adequate scientific follow-up in order to yield significant results.

- 3. The results of pilot projects financed under paragraph 1 shall be the subject of technical reports available to the public.

Article 42

MODIFICATION FOR REASSIGNMENT OF FISHING VESSELS

The EFF may support the modification of fishing vessels for their reassignment, under the flag of a Member State and registered in the Community for training or research purposes in the fisheries sector or for other activities outside fishing. These operations shall be limited to public or semi-public bodies.

CHAPTER IV

Priority axis 4: sustainable development of fisheries areas

Article 43

SCOPE OF ASSISTANCE

- 1. The EFF may provide assistance, complementary to the other Community instruments, for the sustainable development and improvement of the quality of life in fisheries areas eligible as part of an overall strategy which seeks to support the implementation of the objectives of the common fisheries policy, in particular taking account of its socio-economic effects.
- 2. The measures for sustainable development of fisheries areas shall seek to:
 - (a) maintain the economic and social prosperity of these areas and add value to fisheries and aquaculture products;
 - (b) maintain and develop jobs in fisheries areas through support for diversification or the economic and social restructuring of areas facing socio-economic difficulties as a result of changes in the fisheries sector;
 - (c) promote the quality of the coastal environment;
 - (d) promote national and transnational cooperation between fisheries areas.

- 3. A fisheries area selected for assistance shall be limited in size and, as a general rule, shall be smaller than NUTS level 3 of the common classification of territorial units for statistics within the meaning of Regulation (EC) No 1059/2003 of 26 May 2003 of the European Parliament and of the Council of 23 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) ⁽¹⁾. The area should be sufficiently coherent from a geographical, economic and social point of view.

- 4. Assistance should target, as a priority, areas with:

- (a) low population density,
- or
- (b) fishing in decline,
- or
- (c) small fisheries communities.

- 5. The Member State shall inform the Commission of the areas selected for funding under this priority axis and include this information in the forthcoming annual report on implementation referred to in Article 67.

Article 44

ELIGIBLE MEASURES

- 1. Support for sustainable development of fisheries areas may be granted for:
 - (a) strengthening the competitiveness of fisheries areas;
 - (b) restructuring and redirecting economic activities, in particular by promoting eco-tourism, provided that these activities do not result in an increase in fishing effort;
 - (c) diversifying activities through the promotion of multiple employment for fishers through the creation of additional jobs outside the fisheries sector;
 - (d) adding value to fisheries products;
 - (e) supporting small fisheries and tourism related infrastructure and services for the benefit of small fisheries communities;
 - (f) protecting the environment in fisheries areas to maintain its attractiveness, regenerating and developing coastal hamlets and villages with fisheries activities and protecting and enhancing the natural and architectural heritage;
 - (g) re-establishing the production potential in the fisheries sector when damaged by natural or industrial disasters;

(1) OJ L 154, 21.6.2003, p. 1. Regulation as amended by Regulation (EC) No 1888/2005 (OJ L 309, 25.11.2005, p. 1).

- (h) promoting inter-regional and trans-national cooperation among groups in fisheries areas, mainly through networking and disseminating best practice;
- (i) acquiring skills and facilitating the preparation and implementation of the local development strategy;
- (j) contributing to the running costs of the groups.

2. The EFF may also finance up to a maximum of 15% of the priority axis involved, measures such as the promotion and improvement of professional skills, worker adaptability and access to employment, particularly in favour of women, provided that these measures are an integral part of a sustainable development strategy and that they have a direct link with the measures described in paragraph 1.

3. Support granted under paragraph 1 may include measures provided for in Chapters I, II and III with the exception of measures provided for in Articles 23 and 24. When support is granted for operations corresponding to these measures, the relevant conditions and the scales of contribution per operation laid down respectively in Chapters I, II and III and Annex II shall apply.

4. Beneficiaries of support provided for in points (b) and (c) of paragraph 1 and in paragraph 2 should be either workers in the fisheries sector or persons with a job linked to the sector.

5. Running costs for groups may not exceed, as a general rule, 10% of the total budget allocated to a fisheries area. By way of derogation, Member States may decide to exceed this threshold on a case by case basis, in particular when the groups cannot be established on the basis of existing experienced organisations.

6. If a measure under this Article is also eligible under another Community support instrument, the Member State shall make clear in drawing up its operational programme whether it is supported by the EFF or by another Community support instrument.

Article 45

PARTICIPATION IN THE SUSTAINABLE DEVELOPMENT OF FISHERIES AREAS

1. Measures to support sustainable development of fisheries areas shall be implemented on a given territory by local entities or groups (the group) representing public and private partners from the various local relevant socio economic sectors and, according to the principle of proportionality, with adequate administrative and financial capacity to administer the assistance and ensure that the operations are completed successfully. The group should, whenever possible, be based on existing experienced organisations.

2. The group shall propose and implement an integrated local development strategy based on a bottom-up approach in agreement with the managing authority.

3. The territory covered by one group should be coherent and have sufficient critical mass in terms of human, financial and economic resources to support a viable local development strategy.

4. The operations under the local development strategy shall be chosen by the group and shall correspond to the measures provided for in Article 44. The majority of the operations shall be led by the private sector.

5. Member States or regions, depending on the specific nature of their institutional structure, may encourage networking aiming at disseminating information and, in particular, exchanging best practice.

CHAPTER V

Priority axis 5: technical assistance

Article 46

TECHNICAL ASSISTANCE

1. At the initiative of and/or on behalf of the Commission, subject to a ceiling of 0,8% of its annual allocation, the EFF may finance the preparatory, monitoring, administrative and technical support, evaluation and audit measures necessary for implementing this Regulation.

These measures are executed in accordance with Article 53(2) of Regulation (EC, Euratom) No 1605/2002 and any other relevant provisions of that Regulation and of its implementing rules applicable to this form of execution of the general budget of the European Union.

Those measures shall include:

- (a) evaluations, expert reports, statistics and studies, including those of a general nature concerning the operation of the EFF;
- (b) measures aimed at the partners, the beneficiaries of assistance from the EFF and the general public, including information measures;
- (c) measures to disseminate information, networking, raise awareness, promote cooperation and exchange experiences throughout the Community;
- (d) the installation, operation and interconnection of computerised systems for management, monitoring, inspection and evaluation;

(e) improvements in evaluation methods and the exchange of information on practices in this field;

(f) the establishment of trans-national and Community networks of actors in the sustainable development of fisheries areas with a view to encouraging the exchange of experience and best practice, stimulating and implementing trans-regional and trans-national cooperation and the dissemination of information.

2. At the initiative of the Member State, the EFF may finance under the operational programme actions relating to the preparation, management, monitoring, evaluation, publicity, control and audit of the operational programme, as well as networking, up to a limit of 5% of its total amount. By exception, and in duly justified circumstances, this threshold may be exceeded.

3. At the initiative of the Member State, the EFF may also finance actions under the operational programme relating to the improvement of administrative capacities of the Member State all of whose regions are eligible under the Convergence objective.

4. Types of technical assistance provided for in paragraph 1 shall be adopted in accordance with the procedure referred to in Article 101(2).

TITLE V EFFECTIVENESS AND PUBLICITY OF ASSISTANCE

CHAPTER I Evaluation of the operational programmes

Article 47

GENERAL PROVISIONS

1. The operational programme shall be subject to *ex ante*, interim and *ex post* evaluations in accordance with the provisions of Articles 48, 49 and 50.

Evaluations shall aim to improve the quality and effectiveness of the assistance from the EFF and the implementation of the operational programme. They shall also appraise their impact with respect to the guiding principles set out in Article 19, the relevant part of the national strategic plans and the specific problems affecting the Member States, while taking account of the needs of sustainable development in the fisheries sector and the environmental impact.

2. The effectiveness of assistance from the EFF shall be appraised on the basis of the following criteria:

(a) the overall impact of the EFF on the objectives set out in Article 4;

(b) the impact of the priority axes incorporated in the operational programme.

3. Evaluations provided for in the first subparagraph of paragraph 1 shall be carried out under the responsibility of the Member State or the Commission, as appropriate, in accordance with the principle of proportionality and in partnership with the Commission and the Member State.

4. The Member States shall provide the human and financial resources necessary for carrying out evaluations, organise the production and gathering of the necessary data and use the various types of information provided by the monitoring system.

5. The evaluation methods and standards to be applied shall be established in accordance with the procedure referred to in Article 101(3).

6. Evaluations shall be carried out by assessors independent of the authorities referred to in Article 58. The results shall be published, unless the authority responsible for the evaluation expressly objects, in accordance with the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾.

7. Evaluations shall be financed from the budget for technical assistance of the operational programme if they are carried out under the responsibility of the Member State and from the budget for technical assistance of the Commission if they are carried out under its responsibility.

Article 48

EX ANTE EVALUATION

1. The *ex ante* evaluation shall aim to ensure the coherence between the guiding principles set out in Article 19, the relevant part of the national strategic plan and the operational programme as well as to optimise the allocation of budgetary resources under the operational programme and to improve programming quality.

2. Member States shall carry out an *ex ante* evaluation at the level of the operational programme in accordance with the principle of proportionality, and in conformity with the evaluation methods and standards to be defined in accordance with the procedure provided for in Article 47(5).

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

3. Member States shall present the *ex ante* evaluation at the latest when submitting the operational programme.

Article 49

INTERIM EVALUATION

1. The interim evaluation shall aim to examine the effectiveness of all or part of the operational programme with the aim of adjusting it to improve the quality of assistance and its implementation.
2. Interim evaluations shall be performed for an operational programme in accordance with the principle of proportionality on the basis of a calendar which makes it possible to take account of the findings in order to establish the strategic debate referred to in Article 16.
3. Interim evaluations shall be organised under the responsibility of the Member States and on the initiative of the managing authorities in consultation with the Commission in accordance with the evaluation methods and standards to be defined in accordance with the procedure provided for in Article 47(5). Interim evaluations are forwarded to the Monitoring Committee of the operational programme and to the Commission.

Article 50

EX POST EVALUATION

1. *Ex post* evaluation shall examine the degree of utilisation of resources, the effectiveness and efficiency of the operational programme and its impact in relation to the objectives set out in Article 4 and the guiding principles set out in Article 19. It shall identify the factors which contributed to the success or failure of the implementation of the operational programme, including from the point of view of sustainability, and best practice.
2. The *ex post* evaluation shall be performed at the initiative and under the responsibility of the Commission in consultation with the Member State and the managing authority, which shall collect the information necessary for its implementation.
3. The *ex post* evaluation shall be completed not later than 31 December 2015.

CHAPTER II

Information and publicity

Article 51

INFORMATION AND PUBLICITY

1. The Member States shall provide information on and publicise the operational programme and operations and the Community contribution. The information shall be addressed to the

general public. It shall aim to highlight the role of the Community and ensure the transparency of assistance from the EFF.

2. The managing authority for the operational programme shall be responsible for its publicity as follows:

- (a) it shall inform potential beneficiaries, organisations involved in the fisheries sector, professional organisations, economic and social partners, bodies involved in promoting gender equality and non-governmental organisations concerned, including environmental organisations, of the possibilities offered by the programme and the rules and methods governing access to financing;
- (b) it shall inform the beneficiaries of the amount of the Community contribution;
- (c) it shall inform the general public about the role played by the Community in the operational programme and the results thereof.

3. The Member States shall notify the Commission each year of the initiatives undertaken for the purpose of this Article in the framework of the annual and final reports on implementation referred to in Article 67.

TITLE VI

FINANCIAL CONTRIBUTION FROM THE EFF

CHAPTER I

Contribution from the EFF

Article 52

PUBLIC AID INTENSITY

The maximum intensity of public aid is set out in the Table in Annex II.

Article 53

CONTRIBUTION FROM THE EFF

1. The Commission's decision adopting an operational programme shall fix the maximum rate and the maximum amount of the contribution from the EFF separately for the Convergence and the Non-Convergence objective for each priority axis.
2. The contribution from the EFF shall be calculated in relation to the total public expenditure.

3. The contribution from the EFF shall be established per priority axis. The contribution from the EFF shall be subject to the following ceilings:

- (a) 75% of the total public expenditure co-financed by the EFF in regions eligible under the Convergence objective, subject to paragraphs 7, 8 and 9.
- (b) 50% of the total public expenditure co-financed in regions not eligible under the Convergence objective, subject to paragraphs 7, 8 and 9.

Notwithstanding this, Member States may apply in the operational programme a uniform rate by region at the level of measures.

4. The minimum contribution from the EFF per priority axis shall be 20% of the total public expenditure.

5. The minimum amount of support granted to an operation by the EFF shall be 5% of the total public expenditure allocated for assistance to the operation.

6. The overall amount of support granted to an operation by the EFF shall not exceed 95% of the total public expenditure allocated for assistance to the operation.

7. When operations financed by the EFF fall under Articles 24 or 27, where these form part of a fishing effort adjustment plan referred to in Article 21(a)(i), or fall under Articles 26(3) or (4), the ceiling for the EFF contribution for priority axis 1 shall be increased by up to 10 percentage points in the regions eligible under the Convergence objective and by up to 15 percentage points for the regions not eligible under the Convergence objective.

This increase is proportional to the ratio of the total expenditure for the operations in the first sub-paragraph to the total expenditure for priority axis 1.

8. When operations financed by the EFF fall under Article 23, the ceiling for the EFF contribution for priority axis 1 shall be increased by up to 10 percentage points in the regions eligible under the Convergence objective and by up to 25 percentage points for the regions not eligible under the Convergence objective.

This increase is proportional to the ratio of the total expenditure for the operations in the first sub-paragraph to the total expenditure for priority axis 1.

9. When operations are financed by the EFF in the outlying Greek islands which are under a handicap due to distant location and in the outermost regions, the ceiling for the contribution from the EFF for each priority axis shall be increased by up to 10 percentage points in the regions eligible under the Con-

vergence objective and by up to 35 percentage points for the regions not eligible under the Convergence objective.

For each priority axis, this increase is proportional to the ratio of the total expenditure for the operations in the first sub-paragraph to the total expenditure within the priority axis.

10. Technical assistance measures implemented at the initiative of the Commission or on its behalf shall be financed by the EFF at 100%.

Article 54

NON-ACCUMULATION

Expenditure co-financed by the EFF shall not receive assistance from another Community financial instrument.

Article 55

ELIGIBILITY OF EXPENDITURE

1. Expenditure shall be eligible for a contribution from the EFF if it has actually been paid by the beneficiaries between the date of submission of the operational programme to the Commission or from 1 January 2007, whichever is earlier, and 31 December 2015. Operations co-financed must not have been completed before the starting date for eligibility.

2. By way of derogation from paragraph 1, in-kind contributions, depreciation costs and overheads may be treated as expenditure paid by beneficiaries in implementing operations under the following conditions:

- (a) the eligibility rules laid down under paragraph 4 provide for the eligibility of such expenditure;
- (b) the amount of the expenditure is justified by accounting documents having a probative value equivalent to invoices;
- (c) in the case of in-kind contributions, the co-financing from the EFF does not exceed the total eligible expenditure, excluding the value of such contributions.

3. Expenditure shall be eligible for a contribution from the EFF only where incurred for operations decided on by the managing authority in accordance with criteria fixed in advance by the Monitoring Committee.

New expenditure, added at the moment of the revision of an operational programme referred to in Article 18, shall be eligible from the date of the submission to the Commission of the request for revision of the operational programme.

4. The rules on the eligibility of expenditure shall be laid down at national level subject to the exceptions provided for in this Regulation. They shall cover the entirety of expenditure declared under the operational programme.

5. The following expenditure shall not be eligible for a contribution from the EFF:

- (a) a value added tax, except for a non recoverable value added tax when it is genuinely and definitively borne by a beneficiary other than non-taxable persons referred to in the first subparagraph of Article 4(5) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment ⁽¹⁾;
- (b) interest on debt, without prejudice to paragraph 8;
- (c) the purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation concerned;
- (d) housing.

6. Paragraphs 1, 3 and 4 shall be without prejudice to the provisions of Article 46(1).

7. As regards operations not implying expenditure for the beneficiary, the expenditure eligible for a contribution from the EFF shall be the public aid paid to the beneficiary.

8. Notwithstanding paragraph 5(b), the contribution from the EFF may be in a form other than a non-repayable direct assistance. Detailed rules shall be defined in accordance with the procedure referred to in Article 101(3).

Article 56

DURABILITY OF OPERATIONS

1. The Member State or managing authority shall ensure that an operation retains the contribution from the EFF only if that operation does not, within five years of the date of the financing decision of the competent national authorities or the managing authority, undergo a substantial modification:

- (a) affecting its nature or its implementation conditions or giving to a firm or a public body an undue advantage;
- or
- (b) resulting either from a change in the nature of ownership of an item of infrastructure or the cessation or relocation of a productive activity.

2. The managing authority shall inform the Commission in the annual and final report on implementation referred to in Article 67 of any such modification referred to in paragraph 1.

3. Sums unduly paid shall be recovered in accordance with Title VIII, Chapters II and III.

4. The Member States and the Commission shall ensure that undertakings which are or have been subject to a procedure of recovery in accordance with paragraph 3 following the transfer of a productive activity within a Member State or to another Member State do not benefit from a contribution from the EFF.

TITLE VII

MANAGEMENT, MONITORING AND CONTROL

CHAPTER I

Management and control systems

Article 57

GENERAL PRINCIPLES OF THE MANAGEMENT AND CONTROL SYSTEMS

1. The management and control systems of operational programmes set up by Member States shall provide for:

- (a) the definition of the functions of the bodies concerned in management and control and the allocation of functions within each body;
- (b) compliance with the principle of separation of functions between and within such bodies;
- (c) procedures for ensuring the correctness and regularity of expenditure declared under the operational programme;
- (d) reliable accounting, monitoring and financial reporting systems in computerised form;
- (e) a system of reporting and monitoring where the responsible body entrusts the execution of tasks to another body;
- (f) arrangements for auditing the functioning of the systems;
- (g) systems and procedures to ensure an adequate audit trail;
- (h) reporting and monitoring procedures for irregularities and for the recovery of amounts unduly paid.

2. The measures laid down in points (e) and (f) shall be proportionate to the total amount of public expenditure allocated to the operational programme concerned.

Article 58

DESIGNATION OF AUTHORITIES

1. For the operational programme the Member State shall designate the following:

⁽¹⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/18/EC (OJ L 51 22.2.2006, p. 12).

- (a) managing authority to manage the operational programme;
- (b) a certifying authority to certify statements of expenditure and applications for payment before they are sent to the Commission;
- (c) an audit authority, functionally independent of the managing authority and the certifying authority, responsible for verifying the effective functioning of the management and control system.

2. The Member State may designate one or more intermediate bodies to carry out some or all of the tasks of the managing or certifying authority under the responsibility of that authority.

3. The Member State shall lay down rules governing its relations with the authorities referred to in paragraph 1 and their relations with the Commission.

4. Subject to Article 57(1)(b), some or all of the authorities referred to in paragraph 1 may be part of the same body.

Article 59

FUNCTIONS OF THE MANAGING AUTHORITY

The managing authority of an operational programme shall be responsible for managing and implementing the operational programme in accordance with the principle of sound financial management and, in particular, for:

- (a) ensuring that operations are selected for funding in accordance with the criteria applicable to the operational programme and that they comply with applicable Community and national rules, for the whole of their implementation period;
- (b) verifying that the co-financed products and services are delivered and that the expenditure declared by the beneficiaries has actually been incurred and complies with Community and national rules; verifications on-the-spot of individual operations may be carried out on a sample basis in accordance with the detailed rules to be adopted by the Commission in accordance with the procedure referred to in Article 101(3);
- (c) ensuring that there is a system for recording and storing in computerised form accounting records of each operation under the operational programme and that the data on implementation necessary for financial management, monitoring, verifications, audits and evaluation is collected;
- (d) ensuring that beneficiaries and other bodies involved in the implementation of operations maintain either a separate accounting system or an adequate accounting code for all transactions relating to the operation without prejudice to national accounting rules;

(e) ensuring that the evaluations of operational programmes referred to in Articles 48 and 49 are carried out in accordance with Article 47;

(f) setting up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements of Article 87;

(g) ensuring that the certifying authority and the audit authority receive all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification and audit respectively;

(h) guiding the work of the monitoring committee and providing it with the documents required to permit the quality of the implementation of the operational programme to be monitored in the light of its specific goals;

(i) drawing up and, after approval by the monitoring committee, submitting to the Commission the annual and final reports on implementation;

(j) ensuring compliance with the information and publicity requirements laid down in Article 51.

Article 60

FUNCTIONS OF THE CERTIFYING AUTHORITY

The certifying authority of an operational programme shall be responsible in particular for:

- (a) drawing up and submitting to the Commission certified statements of expenditure and applications for payment;
- (b) certifying that:
 - (i) the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents,
 - (ii) the expenditure declared complies with applicable Community and national rules and has been incurred in respect of operations selected for funding in accordance with the criteria applicable to the programme and complying with the applicable Community and national rules;
- (c) satisfying itself that the information received on the procedures and verifications carried out in relation to expenditure included in statements of expenditure provide an adequate basis for certification;

- (d) taking account for the certification purposes of the results of all audits carried out by or under the responsibility of the audit authority;
- (e) maintaining accounting records in computerised form of expenditure declared to the Commission;
- (f) keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered prior to the closure of the operational programme that are due to be repaid to the general budget of the European Union following financial corrections made in accordance with Article 97 shall be deducted from the next statement of expenditure.

Article 61

FUNCTIONS OF THE AUDIT AUTHORITY

1. The audit authority of an operational programme shall be responsible in particular for:
 - (a) ensuring that audits are carried out to verify the effective functioning of the management and control system of the operational programme;
 - (b) ensuring that audits are carried out on operations on the basis of an appropriate sample to verify expenditure declared;
 - (c) presenting the Commission, within nine months of the approval of the operational programme, an audit strategy covering the bodies which will perform the audits pursuant to points (a) and (b), the method to be used, the sampling method for audits on operations, and the indicative planning of audits to ensure that the main bodies are audited and that audits are spread evenly throughout the programming period;
 - (d) ensuring that the managing authority and the certifying authority receive all necessary information on the audits and controls carried out;
 - (e) by 31 December each year from 2008 up to 2015:
 - (i) submitting to the Commission an annual control report setting out the findings of the audits carried out during the previous 12 month period ending on 30 June of the year concerned in accordance with the audit strategy of the operational programme and reporting any shortcomings found in the systems for the management and control of the programme. The first report to be submitted by 31 December 2008 shall cover the period from 1 January 2007 to 30 June 2008. The information concerning the audits carried out in the period after 1 July 2015 shall be included in the final control report supporting the closure declaration referred to in point (f);
 - (ii) issuing an opinion based on the controls and audits that have been carried out under its responsibility as to whether the management and control system functions effectively, so as to provide reasonable assurance that statements of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular;
 - (iii) submitting, where applicable under Article 85, a declaration for partial closure assessing the legality and the regularity of the expenditure concerned;
 - (f) submitting to the Commission at the latest by 31 March 2017, a closure declaration assessing the validity of the application for payment of the balance and the legality and regularity of the underlying transactions covered by the final statement of expenditure, which shall be supported by a final control report.
2. The audit authority shall ensure that the audit work takes account of internationally accepted audit standards.
3. Where the audits and controls referred to in paragraph 1 (a) and (b) are carried out by a body other than the audit authority, the audit authority shall ensure that such body has the necessary functional independence.
4. The Commission shall provide its comments on the audit strategy presented under paragraph 1(c) no later than three months following its receipt. In the absence of comments within this period it shall be considered to be accepted.

CHAPTER II Monitoring

Article 62

PRINCIPLES OF MONITORING

1. Monitoring shall consist of the examination of the correct implementation of the operational programme.
2. Monitoring shall be carried out in the first instance by the monitoring committee and the managing authority.
3. The Commission shall participate in the monitoring through its participation in the monitoring committee and the annual review of the operational programme which shall include, in particular, the analysis of the annual implementation and control reports.
4. Data exchange between the Commission and the Member States for this purpose shall be carried out electronically in accordance with the implementing rules referred to in Article 102.

*Article 63***MONITORING COMMITTEE**

The Member State shall set up a monitoring committee for the operational programme, in agreement with the managing authority after consultation with the partners pursuant to Article 8. The monitoring committee shall be set up within three months from the date of the notification to the Member State of the decision approving the operational programme.

The monitoring committee shall draw up its rules of procedure within the institutional, legal and financial framework of the Member State concerned and adopt them in agreement with the managing authority in order to exercise its missions in accordance with this Regulation.

*Article 64***COMPOSITION**

1. The monitoring committee shall be chaired by a representative of the Member State or the managing authority.

Its composition shall be decided by the Member State in conformity with Article 8(1) and in agreement with the managing authority.

2. At its own initiative, a representative of the Commission shall participate in the work of the monitoring committee in an advisory capacity.

*Article 65***TASKS**

The monitoring committee shall satisfy itself as to the effectiveness and quality of the implementation of the operational programme, in accordance with the following provisions:

(a) it shall consider and approve the criteria for selecting the operations financed within six months of the approval of the operational programme and approve any revision of those criteria in accordance with programming needs;

(b) it shall periodically review progress made towards achieving the specific targets of the operational programme on the basis of documents submitted by the managing authority;

(c) it shall examine the results of implementation, particularly achievement of the targets set for each priority axis and the interim evaluations referred to in Article 49;

(d) it shall examine and approve the annual and final reports on implementation referred to in Article 67 before they are sent to the Commission;

(e) it shall be informed of the annual control report and of any relevant comments the Commission may make after examining that report;

(f) at the initiative of the Member State, it may be informed of the written information submitted to the Commission referred to in Article 16(1);

(g) it may propose to the managing authority any revision or examination of the operational programme likely to make possible the attainment of the EFF's objectives set out in Article 4 or to improve its management, including its financial management;

(h) it shall consider and approve any proposal to amend the content of the Commission decision on the contribution from the EFF.

*Article 66***ARRANGEMENTS FOR MONITORING**

1. The managing authority and the monitoring committee shall ensure the quality of implementation of the operational programme.

2. The managing authority and the monitoring committee shall carry out monitoring by reference to financial indicators and the indicators referred to in Article 20(1)(c) specified in the operational programme.

3. Where the nature of the assistance permits, the statistics shall be broken down by gender and by the size of the beneficiary's undertakings.

4. Data exchange between the Commission and the Member States for this purpose shall be carried out electronically, in accordance with the implementing rules referred to in Article 102.

*Article 67***ANNUAL REPORTS AND FINAL REPORTS ON IMPLEMENTATION**

1. By 30 June each year, and for the first time in 2008, the managing authority shall send the Commission an annual report, and by 31 March 2017 a final report, on the implementation of the operational programme.

2. In order to obtain a clear view of the implementation of the operational programme, the reports referred to in paragraph 1 shall include the following information:

(a) the progress made in implementing the operational programme and priority axes in relation to their specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, using

the indicators referred to in Article 20(1)(c) at the level of the priority axis;

- (b) a change in the general situation having a direct impact on the implementation of the assistance, in particular significant socio-economic developments, changes in national, regional or sectoral policies, and, where necessary, their consequences for consistency between assistance from the EFF and from other financial instruments;
- (c) the financial implementation of the operational programme, detailing separately for the Convergence objective and the Non-Convergence objective for each priority axis:
 - (i) the expenditure paid out by the beneficiaries included in the applications for payment sent to the managing authority and the corresponding public contribution;
 - (ii) the total payments received from the Commission and quantification of the financial indicators referred to in Article 66(2),

and

 - (iii) the expenditure paid out by the body responsible for making payments to the beneficiaries;
- (d) the steps taken by the managing authority and the monitoring committee to ensure the quality and effectiveness of implementation, in particular:
 - (i) monitoring and evaluation measures, including data collection arrangements;
 - (ii) a summary of any significant problems encountered in implementing the operational programme and any measures taken, including the response to comments made under Article 69(2);
 - (iii) the use made of technical assistance;
- (e) the measures taken to ensure information and publicity for the operational programme;
- (f) the use made of assistance released following cancellation as referred to in Article 96(2) to the managing authority or to another public authority during the period of implementation of the operational programme.
- (g) cases where a substantial modification has been detected under Article 56.
- (h) significant problems relating to compliance with Community law which have been encountered in the implementation of the operational programme and the measures taken to deal with them.

The breadth of information transmitted to the Commission shall be proportional to the total amount of public expenditure

of the operational programme concerned. Where appropriate, such information may be provided in summary form.

Information referred to in points (b), (d), (e), (f) and (g) shall not be included if there has been no significant modification since the previous report.

3. The reports referred to in paragraph 1 shall be judged acceptable if they contain all the information listed in paragraph 2. The Commission shall inform the Member State on the acceptability of those reports within 15 working days.

4. The Commission shall reach a decision on the content of the annual report on implementation submitted by the managing authority within two months. For the final report on implementation, the time limit shall be five months. If the Commission does not respond within the time limit laid down, the report shall be deemed to be accepted.

Article 68

ANNUAL REPORT BY THE COMMISSION

1. By 31 December each year, and for the first time in 2008, the Commission shall forward to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions a report on the actual implementation of this Regulation during the preceding year.

2. This report shall summarise the main developments, trends and challenges relating to the implementation of the operational programmes.

3. The annual report by the Commission shall also include:

- (a) a summary of the activities of the EFF by Member State, including a breakdown by Member State of the appropriations committed and paid, as well as the use of technical assistance by the Commission and the Member States;
- (b) an assessment of the coordination of the EFF with the Structural Funds and the EAFRD;
- (c) as soon as they become available, the findings of the evaluations provided for in Article 49;
- (d) when the fourth annual report is submitted and, again, when the report covering the final year of programming is submitted, a summary of the audits on management and control systems set up by Member States carried out on behalf of the Commission and of the outcome of audits on EFF assistance carried out by the Member State and, where appropriate, the financial corrections made.

4. The report shall be based on an examination and assessment by the Commission of the Member States' annual report

and of any other available information. In particular in 2012, this report shall in addition be based on the outcome of the strategic debate referred to in Article 16(1) and of any other available information. The report shall state the follow-up measures taken or to be taken by the Member States and the Commission which will enable adequate follow-up to be made of the findings in the report.

Article 69

ANNUAL EXAMINATION OF THE OPERATIONAL PROGRAMMES

1. Every year when the annual report on implementation referred to in Article 67 is submitted and taking account of the opinion of the Commission, the Commission and the managing authority shall examine the progress made in implementing the operational programme, the principal results achieved over the previous year, the financial implementation and other factors with a view to improving implementation.

Any aspects of the operation of the management and control system raised in the annual control report, referred to in Article 61(1)(e)(i), may also be examined and, where appropriate, this examination shall be carried out with the participation of the audit authority.

2. After the examination referred to in paragraph 1 and, where appropriate, with the participation of the audit authority, the Commission may make comments to the Member State and the managing authority, which shall inform the monitoring committee thereof. The Member State shall inform the Commission of the action taken in response to those comments.

3. When the *ex post* evaluations of assistance granted over the 2000-2006 programming period are available, the overall results shall be examined in the next annual examination.

CHAPTER III Responsibilities of Member States and of the Commission

Section 1 Responsibilities of Member States

Article 70

MANAGEMENT AND CONTROL

1. Member States shall be responsible for ensuring the management and control of operational programmes, in particular through the following measures:

- (a) ensuring that the management and control systems for the operational programme are set up in accordance with Articles 57 to 61 and function effectively;

- (b) preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate. They shall notify these to the Commission and keep the Commission informed of the progress of administrative and legal proceedings.

2. When amounts unduly paid to a beneficiary cannot be recovered, the Member State shall be responsible for reimbursing the amounts lost to the general budget of the European Union when it is established that the loss has been incurred as a result of fault or negligence on its part.

Article 71

SETTING UP OF MANAGEMENT AND CONTROL SYSTEMS

1. Before the submission of the first application for interim payment or at the latest within 12 months after the approval of the operational programme, the Member States shall submit to the Commission a description of the systems, covering in particular the organisation and procedures of:

- (a) the managing and certifying authorities and intermediate bodies;
- (b) the audit authority and any other bodies carrying out audits under its responsibility.

2. The description referred to in paragraph 1 shall be accompanied by a report setting out the results of an assessment of the setting up of the systems and giving an opinion on their compliance with Articles 57 to 61. If the opinion contains reservations, the report shall indicate the seriousness of the shortcomings. The Member State shall inform the Commission of the corrective measures to be taken and the timetable for their implementation and subsequently provide confirmation of the implementation of the measures and the withdrawal of the corresponding reservations.

The report referred to in the first subparagraph shall be deemed to be accepted, and the first interim payment shall be made, in the following circumstances:

- (a) within three months of the date of receipt of the report when the opinion referred to in the first subparagraph is without reservations and in the absence of observations by the Commission;
- (b) if the opinion contains reservations, upon confirmation to the Commission that corrective measures concerning key elements of the systems have been implemented, and the corresponding reservations withdrawn, and in the absence of observations by the Commission within three months of the date of confirmation.

Where the reservations concern only a single priority axis, the first interim payment shall be made as regards the other priori-

ty axes of the operational programme for which there is no reservation.

3. The report and the opinion referred to in paragraph 2 shall be drawn up by the audit authority or by a public or private body functionally independent of the managing and certifying authorities, which shall carry out its work taking account of internationally accepted audit standards.

Section 2

Responsibilities of the Commission

Article 72

RESPONSIBILITIES OF THE COMMISSION

1. The Commission shall satisfy itself in accordance with the procedure laid down in Article 71 that the Member States have set up management and control systems that comply with Articles 57 to 61 and on the basis of the annual control reports and the annual opinion of the audit authority and its own audits, that the systems function effectively during the period of implementation of the operational programmes.

2. Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits to verify the effective functioning of the management and control systems, which may include audits on operations included in the operational programme, with a minimum of 10 working days' notice, except in urgent cases. Officials or authorised representatives of the Member State may take part in such audits.

Commission officials or authorised Commission representatives, duly empowered to carry out on-the-spot audits, shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EFF.

The aforementioned powers of audit shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Authorised Commission representatives shall not take part, *inter alia*, in home visits or the formal questioning of persons within the framework of the national legislation of the Member State concerned. However, they shall have access to information thus obtained.

3. The Commission may require a Member State to carry out an on-the-spot audit to verify the effective functioning of the systems or the correctness of one or more transactions. Commission officials or authorised Commission representatives may take part in such audits.

Article 73

COOPERATION WITH THE AUDIT AUTHORITIES OF THE MEMBER STATES

1. The Commission shall cooperate with the audit authority of the operational programme to coordinate their respective audit plans and audit methods and shall immediately exchange the results of audits carried out on management and control systems in order to make the best possible use of resources and to avoid unjustified duplication of work.

The Commission and the audit authority shall meet on a regular basis and at least once a year, unless otherwise agreed between them, in order to examine together the annual control report and opinion presented under Article 61 and to exchange views on other issues relating to the improvement of the management and control of the operational programme.

2. In determining its own audit strategy, the Commission shall identify those operational programmes for which the opinion on the compliance of the system under Article 71(2) is without reservations, or where reservations have been withdrawn following corrective measures, where the audit strategy of the audit authority is satisfactory and where reasonable assurance has been obtained that the management and control systems function effectively on the basis of the results of audits carried out by the Commission and the Member State.

3. For those operational programmes, the Commission may conclude that it can rely principally on the opinion referred to in Article 61(1)(e)(ii) with regard to the effective functioning of the systems and that it will carry out on-the-spot audits only if there is evidence to suggest shortcomings in the system affecting expenditure certified to the Commission in a year for which the opinion under Article 61(1)(e)(ii), which contain no reservations in respect of such shortcomings, has been provided.

Where the Commission reaches such a conclusion, it shall inform the Member State concerned accordingly. Where there is evidence to suggest shortcomings, it may require the Member State to carry out audits in accordance with Article 72(3) or it may carry out its own audits under Article 72(2).

TITLE VIII FINANCIAL MANAGEMENT

CHAPTER I Financial management

Section 1 Budget commitments

Article 74

BUDGET COMMITMENTS

The Community budget commitments in respect of the operational programmes (hereinafter referred to as budget commitments) shall be effected annually and separately for the Convergence and Non-Convergence objectives during the period between 1 January 2007 and 31 December 2013. The first budget commitment shall be made before the adoption by the Commission of the decision approving the operational programme. Each subsequent commitment shall be made by the Commission, as a general rule by 30 April each year, on the basis of the decision to grant a contribution from the EFF referred to in Article 17.

Section 2 Payments

Article 75

COMMON RULES FOR PAYMENTS

1. Payments by the Commission of the contribution from the EFF shall be made in accordance with the budget appropriations. Each payment shall be posted to the earliest open budget commitment.
2. Payments shall take the form of pre-financing, interim payments and payment of the balance. They shall be made to the body designated by the Member State.
3. At the latest by 30 April each year, Member States shall send the Commission a provisional forecast of their likely applications for payment for the current financial year and the subsequent financial year.
4. All exchanges concerning financial transactions between the Commission and the authorities and bodies designated by the Member States shall be made by electronic means, in accordance with the implementing rules referred to in Article 102. In cases of *force majeure*, and in particular of malfunction of the common computerised system or a lack of a lasting connection, the Member State may forward the statement of expenditure and the application for payment in hard copy.

Article 76

RULES FOR CALCULATING INTERIM PAYMENTS

1. Interim payments shall be calculated by applying to the public contribution declared in the statement of expenditure certified by the certifying authority under each priority axis and under each Convergence/Non-Convergence objective, the rate of Community co-financing established under the current financing plan for that priority axis and that objective.

2. By way of derogation from paragraph 1, in response to a specific and properly grounded request by the Member State, an interim payment shall be the amount of Community assistance paid or due to be paid to the beneficiaries in respect of the priority axis and of the objective. This amount must be specified by the Member State in the statement of expenditure.

Article 77

RULES FOR CALCULATING PAYMENTS OF THE BALANCE

Payment of the balance shall be limited to whichever of the following two amounts is smaller:

- (a) the amount calculated by applying to the public contribution declared in the final statement of expenditure certified by the certifying authority under each priority axis and under each Convergence/Non-Convergence objective, the rate of Community co-financing established under the current financing plan for that priority axis and that objective;
- (b) the amount of Community assistance paid or due to be paid to the beneficiaries in respect of each priority axis and for each objective. The latter amount must be specified by the Member State in the last statement of expenditure certified by the certifying authority in respect of each priority axis and for each objective.

Article 78

STATEMENT OF EXPENDITURE

1. All statements of expenditure shall include, for each priority axis and for each objective, the total amount of eligible expenditure paid by beneficiaries in implementing the operations and the corresponding public contribution paid or due to be paid to the beneficiaries, according to the conditions governing the public contribution. Expenditure paid by beneficiaries shall be supported by receipted invoices or accounting documents of equivalent probative value. As regards operations not involving expenditure by the beneficiary, the expenditure certified by the certifying authority and submitted to the Commission shall be the public aid paid to the beneficiary.
2. With regard to Articles 76(2) and 77(b), the statements of expenditure shall also highlight the total amount of Community assistance paid or due to be paid to the beneficiaries.

*Article 79***ACCUMULATION OF PRE-FINANCING AND INTERIM PAYMENTS**

1. The cumulative total of pre-financing and interim payments made shall not exceed 95% of the contribution from the EFF to the operational programme.
2. When this ceiling is reached, the certifying authority shall continue transmitting to the Commission any certified statement of expenditure on the 31 December of year *n*, as well as the amounts recovered during the year for the EFF, at the latest by the end of February of year *n*+1.

*Article 80***WHOLENESS OF PAYMENT TO BENEFICIARIES**

Member States shall satisfy themselves that the bodies responsible for making the payments ensure that the beneficiaries receive the total amount of the public contribution as quickly as possible and in full. No amounts shall be deducted or withheld, nor shall any further specific charge or other charge with equivalent effect be levied that would reduce these amounts for the beneficiaries.

Section 3**Pre-financing***Article 81***PAYMENT**

1. Following the Commission decision approving a contribution from the EFF to an operational programme, a single pre-financing amount for the period 2007 to 2013 shall be paid by the Commission to the body designated by the Member State. This pre-financing amount shall represent 7% of the contribution from the EFF to that operational programme. It may be spread to two financial years in accordance with the available budget of the EFF.
2. The total amount paid as pre-financing shall be reimbursed to the Commission by the body designated by the Member State if no application for payment under the operational programme is sent within 24 months from the date on which the Commission paid the first instalment of the pre-financing amount.
3. Any interest generated by the pre-financing shall be posted to the operational programme, being regarded as a resource for the Member State in the form of national public contribution and shall be declared to the Commission at the time of the final closure of the operational programme.

4. The amount paid as pre-financing shall be totally cleared from the Commission accounts when the operational programme is closed in accordance with Article 86.

Section 4**Interim payments***Article 82***INTERIM PAYMENTS**

Interim payments shall be made for the operational programme. The first interim payment shall be made in accordance with the provisions of Article 71(2).

*Article 83***ACCEPTABILITY OF APPLICATIONS FOR PAYMENT**

1. Each interim payment made by the Commission shall be subject to the following conditions being met:
 - (a) the Commission must have been sent an application for payment and a statement of expenditure, in accordance with Article 78;
 - (b) no more than the maximum amount of assistance from the EFF, as laid down in the current financing plan, has been paid by the Commission during the whole period for each priority axis and for each objective;
 - (c) the managing authority must have sent the Commission the most recent annual report on implementation, in accordance with Article 67(1) and (3);
 - (d) there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the Treaty, as regards the operation(s) for which the expenditure is declared in the application for payment in question.

2. If one or more of the conditions referred to in paragraph 1 are not met, the Member State and the certifying authority shall be informed by the Commission within a deadline of one month, so that the necessary steps can be taken to remedy the situation.

*Article 84***PROCEDURE FOR PAYMENT**

1. The certifying authority shall ensure that requests for interim payments for the operational programme are grouped together and sent to the Commission, as far as possible, on three separate occasions a year. For a payment to be made by the Commission in the current year, the latest date on which an application for payment shall be submitted is 31 October.

2. Subject to available funding and the absence of the interruption of the payment deadline or suspension of payments in accordance with Articles 88 and 89 respectively, the Commission shall make the interim payment no later than two months after the date on which an application for payment meeting the conditions referred to in Article 83 is registered with the Commission.

Section 5

Payment of the balance and programme closure

Article 85

PARTIAL CLOSURE

1. Partial closure of the operational programme may be made at periods to be determined by the Member State.

Partial closure shall relate to operations completed during the period up to 31 December of the previous year. For the purpose of this Regulation, an operation shall be deemed completed where the activities under it have been actually carried out and for which all expenditure by the beneficiaries and the corresponding public contribution have been paid.

2. Partial closure shall be made on condition that the Member State sends the following to the Commission by 31 December of a given year:

- (a) a statement of expenditure relating to operations referred to in paragraph 1;
- (b) a declaration for partial closure in accordance with Article 61(1)(e)(iii).

3. Any financial corrections made in accordance with Articles 96 and 97 concerning operations subject to a partial closure shall be net financial corrections.

Article 86

CONDITIONS FOR THE PAYMENT OF THE BALANCE

1. The Commission shall pay the balance, provided that:
- (a) the Member State has sent an application for payment comprising the following documents by 31 March 2017:
 - (i) an application for payment of the balance and a statement of expenditure in accordance with Article 78;
 - (ii) the final report on implementation for the operational programme, including the information set out in Article 67;
 - (iii) a closure declaration in accordance with Article 61(1)(f);

and
 - (b) there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the

Treaty, as regards the operation(s) for which the expenditure is declared in the application for payment in question.

2. Failure to send any of the documents referred to in paragraph 1 to the Commission shall automatically result in the decommitment of the balance, in accordance with Article 90.

3. The Commission shall inform the Member State of its opinion on the content of the closure declaration referred to in paragraph 1(a)(iii) within five months of the date of its receipt. The closure declaration shall be deemed to be accepted in the absence of observations by the Commission within that five-month period.

4. Subject to available funding, the Commission shall pay the balance within no more than 45 days from the later of the following dates:

- (a) the date on which it accepts the final report in accordance with Article 67(4);
- or
- (b) the date on which it accepts the closure declaration referred to in paragraph 1(a)(iii).

5. Without prejudice to paragraph 6, the balance of the budgetary commitment shall be decommitted 12 months after the payment has been made.

The Commission shall inform the Member States about the date of the closure of the operational programme within a deadline of two months.

6. Notwithstanding the results of any audits performed by the Commission or the European Court of Auditors, the balance paid by the Commission for the operational programme may be amended within nine months of the date on which it is paid or, where there is a negative balance to be reimbursed by the Member State, within nine months of the date on which the debit note is issued. Such amendment of the balance shall not change the date of the closure of the operational programme communicated in accordance with paragraph 5.

Article 87

AVAILABILITY OF DOCUMENTS

1. The managing authority shall ensure that all the supporting documents regarding expenditure and audits on the operational programme concerned are kept available for the Commission and the European Court of Auditors for:

- (a) a period of three years following the closure of an operational programme;

- (b) a period of three years following the year in which partial closure took place, in the case of documents regarding expenditure and audits on the operations referred to in paragraph 2.

These periods shall be interrupted either in the case of legal proceedings or at the request duly motivated of the Commission.

2. The managing authority shall make available to the Commission, on request, a list of completed operations which have been subject to partial closure under Article 85.
3. The documents shall be kept either in the form of the originals or in versions certified to be in conformity with the originals on commonly accepted data carriers.

Section 6

Interruption of the payment deadline and suspension of payments

Article 88

INTERRUPTION OF THE PAYMENT DEADLINE

1. The payment deadline may be interrupted by the authorising officer by delegation within the meaning of Regulation (EC, Euratom) No 1605/2002 for a maximum period of six months if:

- (a) in a report of a national or Community audit body there is evidence to suggest significant deficiency in the functioning of the management and control systems;

or

- (b) the authorising officer by delegation has to carry out additional verifications following information coming to his attention which alerted him that expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected.

2. The Member State and the certifying authority shall be informed immediately of the reasons for the interruption. The interruption shall be ended as soon as the necessary measures have been taken by the Member State.

Article 89

SUSPENSION OF PAYMENTS

1. All or part of the interim payments at the level of priority axes or the operational programme may be suspended by the Commission where:

- (a) there is a serious deficiency in the management and control system of the operational programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken;

or

- (b) expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected;

or

- (c) there is a serious breach by a Member State of its obligations under Article 70.

2. The Commission may decide to suspend all or part of interim payments after having given the Member State the opportunity to present its observations within a period of two months.

3. The Commission shall end suspension of all or part of interim payments where the Member State has taken the necessary measures to enable the suspension to be lifted. Where the required measures are not taken by the Member State, the Commission may adopt a decision to cancel all or part of the Community contribution to the operational programme in accordance with Article 97.

Section 7

Automatic decommitment

Article 90

PRINCIPLES

1. The Commission shall automatically decommit any part of a budget commitment in an operational programme that has not been used for payment of the pre-financing or interim payments, or for which an application for payment has not been sent in conformity with Article 83, by 31 December of the second year following the year of the budget commitment under the operational programme.

2. The part of budget commitment still open on 31 December 2015 shall be automatically decommitted if the Commission has not received an acceptable application for payment for it by 31 March 2017.

3. If this Regulation enters into force after 1 January 2007, the period after which the first automatic decommitment as referred to in paragraph 1 may be made shall be extended, for the first commitment, by the number of months between 1 January 2007 and the date of the first budget commitment.

Article 91

EXCEPTIONS FOR TIME LIMITS ON DECOMMITMENT

If a Commission decision subsequent to the decision approving the operational programme is needed for authorisation of assistance or of an aid scheme, the period leading to automatic decommitment shall run from the date of that subsequent decision. The amounts in question shall be established on the basis of a schedule provided by the Member State.

*Article 92***PERIOD OF INTERRUPTION FOR LEGAL PROCEEDINGS AND ADMINISTRATIVE APPEALS**

The amount potentially concerned by automatic decommitment shall be reduced by the amounts that the certifying authority has not been able to declare to the Commission because of operations suspended by legal proceedings or an administrative appeal having suspensory effect, on condition that the Member State sends the Commission information stating the reasons by 31 December of the second year following the year of the budget commitment as laid down in Article 90.

For that part of commitments still open on 31 December 2015, the time limit referred to in Article 90(2) shall be interrupted under these same conditions in respect of the amount relating to the operations concerned.

The abovementioned reduction may be requested once if the suspension has lasted up to one year or several times for the number of years between the legal or administrative decision suspending the implementation of the operation and the date of the final legal or administrative decision.

*Article 93***EXCEPTIONS TO THE AUTOMATIC DECOMMITMENT**

The following shall be disregarded in calculating the automatic decommitment:

- (a) that part of the budget commitment for which an application for payment has been made but whose reimbursement has been interrupted or suspended by the Commission on 31 December of the second year following the year of the budget commitment pursuant to Article 90 and in accordance with Articles 88 and 89. When the problem resulting in the interruption or suspension has been resolved, the automatic decommitment rule shall be applied to that part of the budget commitment which is concerned;
- (b) that part of the budget commitment for which an application for payment has been made but whose reimbursement has been capped in particular due to a lack of budget resources;
- (c) that part of the budget commitment for which it has not been possible to make an acceptable application for payment for reasons of force majeure seriously affecting implementation of the operational programme. The national authorities claiming force majeure must demonstrate its direct consequences on the implementation of all or part of the operational programme.

*Article 94***PROCEDURE**

1. The Commission shall inform the Member State and the authorities concerned in good time whenever there is a risk of application of automatic decommitment under Article 90.
2. The Commission shall inform the Member State and the authorities concerned of the amount of the automatic decommitment resulting from the information in its possession.
3. The Member State shall have two months from the date of receipt of that information to agree to the amount or submit its observations. The Commission shall carry out the automatic decommitment not later than nine months after the time limit referred to in Article 90.
4. The contribution from the EFF to the operational programme shall be reduced, for the year concerned, by the amount automatically decommitted. The Member State shall produce within two months of the date of decommitment a revised financing plan reflecting the reduced amount of assistance over one or several of the priority axes of the operational programme. Failing this, the Commission shall reduce the amounts allocated to each priority axis proportionately.

Section 8

Use of the euro*Article 95***USE OF THE EURO**

1. Amounts set out in the operational programme submitted by the Member State, certified statements of expenditure, applications for payment and expenditure mentioned in the annual and final reports of implementation shall be denominated in euro.
2. Commission decisions on operational programmes and Commission commitments and payments, shall be denominated and carried out in euro.
3. Member States which have not adopted the euro as their currency on the date of an application for payment shall convert into euro the amounts of expenditure incurred in national currency.

These amounts shall be converted in euro using the monthly accounting rate of the Commission in the month during which the expenditure was registered in the accounts of the certifying authority of the operational programme concerned. This rate shall be published electronically by the Commission each month.

4. When the euro becomes the currency of a Member State, the conversion procedure set out in the preceding paragraph shall continue to apply to all expenditure recorded in the accounts by the certifying authority before the date of entry into force of the fixed conversion rate between the national currency and the euro.

CHAPTER II Financial corrections

Section 1 Financial corrections by Member States

Article 96

FINANCIAL CORRECTIONS BY MEMBER STATES

1. The Member State shall in the first instance bear the responsibility for investigating irregularities, acting upon evidence of any major change affecting the nature of the conditions for the implementation or control of operations or the operational programme and making the financial corrections required.

2. The Member State shall make the financial corrections required in connection with individual or systemic irregularities detected in operations or the operational programme. The corrections made by the Member State shall consist of cancelling all or part of the public contribution to the operational programme. The Member State shall take into account the nature and gravity of the irregularities and the financial loss to the EFF.

Without prejudice to paragraph 3, the resources of the EFF released in this way may be re-used by the Member State until 31 December 2015 for the operational programme.

3. The contribution cancelled in accordance with paragraph 2 may not be re-used for the operation or operations that were the subject of the correction, nor, where a financial correction is made for a systemic irregularity, for existing operations within whole or part of the priority axis where the systemic irregularity occurred.

4. In the case of systemic irregularity, the Member State shall extend its enquiries to cover all operations liable to be affected.

Section 2 Financial corrections by the Commission

Article 97

CRITERIA FOR THE CORRECTIONS

1. The Commission may make financial corrections by cancelling all or part of the Community contribution to an operational programme where, after carrying out the necessary examination, it concludes that:

- (a) there is a serious deficiency in the management and control system of the programme which has put at risk the Community contribution already paid to the programme;
- (b) expenditure contained in a certified statement of expenditure is irregular and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph;
- (c) a Member State has not complied with its obligations under Article 96 prior to the opening of the correction procedure under this paragraph.

2. The Commission shall base its financial corrections on individual cases of irregularity identified, taking account of the systemic nature of the irregularity to determine whether a flat rate or extrapolated correction should be applied.

3. The Commission shall, when deciding the amount of a correction, take account of the nature and gravity of the irregularity and the extent and financial implications of the deficiencies found in the operational programme.

4. Where the Commission bases its position on the facts established by auditors other than those of its own services, it shall draw its own conclusions regarding their financial consequences, after examining the measures taken by the Member State concerned under Article 96(2), the information supplied under Article 70(1)(b) and any replies from the Member State.

Article 98

PROCEDURE

1. Before taking a decision on a financial correction, the Commission shall open the procedure by informing the Member State of its provisional conclusions and requesting the Member State to submit its comments within two months.

Where the Commission proposes a financial correction on the basis of extrapolation or at a flat rate, the Member State shall be given the opportunity to demonstrate, through an examination of the documentation concerned, that the actual extent of irregularity was less than the Commission's assessment. In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in the first subparagraph.

2. The Commission shall take account of any evidence supplied by the Member State within the time limits referred to in paragraph 1.

3. Where the Member State does not accept the provisional conclusions of the Commission, the Member State shall be invited to a hearing by the Commission, in which both sides in cooperation based on the partnership shall make efforts to reach an agreement concerning the observations and the conclusions to be drawn from them.

4. In case of an agreement, the Member State may re-use the EFF resources concerned in conformity with the second subparagraph of Article 96(2).

5. In the absence of agreement, the Commission shall take a decision on the financial correction within six months of the date of the hearing taking account of all information and observations submitted during the course of the procedure. If no hearing takes place, the six-month period shall begin to run two months after the date of the letter of invitation sent by the Commission.

Article 99

OBLIGATIONS OF MEMBER STATES

A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 96(2) and to recover State aid under Article 87 of the Treaty and under Article 14 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 88 of the EC Treaty ⁽¹⁾.

CHAPTER III Repayment

Article 100

REPAYMENT

1. Any repayment due to be made to the general budget of the European Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 72 of Regulation (EC, Euratom) No 1605/2002. This due date shall be the last day of the second month following the issuing of the recovery order.

2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one and a half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

TITLE IX COMMITTEE

Article 101

COMMITTEE

1. The Commission shall be assisted by the European Fisheries Fund Committee (hereinafter referred to as the Committee).

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period referred to in Article 4(3) of Decision 1999/468/EC shall be set at three months.

4. The Committee shall adopt its own Rules of Procedure.

Article 102

IMPLEMENTING RULES

The implementing rules for this Regulation shall be adopted in accordance with the procedure referred to in Article 101(3).

TITLE X FINAL PROVISIONS

Article 103

TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Council Regulations (EEC) No 4028/86 ⁽²⁾, (EC) No 3699/93 ⁽³⁾, (EC) No 2468/98 ⁽⁴⁾ and (EC) No 2792/1999 ⁽⁵⁾ or of any other legislation which applies to such assistance on 31 December 2006, which shall consequently apply thereafter to that assistance until its closure.

(1) OJ L 83, 27.3.1999, p. 1. Regulation as last amended by the 2003 Act of Accession. (The title of Regulation (EC) No 659/1999 has been adjusted to take account of the renumbering of the Articles of the Treaty establishing the European Community, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 93 of the Treaty.)

(2) Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector (OJ L 376, 31.12.1986, p. 7). Regulation as repealed by Regulation (EEC) No 2080/93 (OJ L 193, 31.7.1993, p. 1).

(3) Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (OJ L 346, 31.12.1993, p. 1). Regulation as repealed by Regulation (EC) No 2468/98 (OJ L 312, 20.11.1998, p. 19).

(4) Council Regulation (EC) No 2468/98 of 3 November 1998 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products. Regulation as repealed by Regulation (EC) No 2792/1999 (OJ L 337, 30.12.1999, p. 10).

(5) Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. Regulation as last amended by Regulation (EC) No 485/2005 (OJ L 81, 30.3.2005, p. 1).

2. By way of derogation from Articles 31(2), 32(4) and 37(1) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽¹⁾, sums committed for assistance co-financed by the Financial Instrument for Fisheries Guidance (FIFG), established by Council Regulation (EC) No 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance ⁽²⁾, approved by the Commission between 1 January 2000 and 31 December 2006 for which the certified statement of expenditure actually paid, the final report on implementation, comprising also the progress report referred to in Article 1(1) of Commission Regulation (EC) No 366/2001 ⁽³⁾, and the declaration referred to in Article 38(1)(f) of Regulation (EC) 1260/1999 have not been sent to the Commission within 15 months after the final date of eligibility of expenditure laid down in the decision granting a contribution from the FIFG, shall be automatically decommitted by the Commission not later than six months after that deadline, giving rise to the repayment of amounts unduly paid.

3. If specific measures are necessary in order to facilitate the transition from the system in force to that established by this Regulation, such measures shall be adopted in accordance with the procedure referred to in Article 101(3).

Such measures shall, in particular, be adopted in order to integrate existing Community support approved by the Commission for the period 2000 to 2006 into the EFF support provided for by this Regulation.

Article 104

REPEALS

1. Without prejudice to the provisions of Article 103(1), Regulations (EC) No 1263/1999 and (EC) No 2792/1999 are hereby repealed with effect from 1 January 2007.

2. References to the repealed Regulations shall be construed as references to this Regulation.

Article 105

REVIEW

The Council shall review this Regulation by 31 December 2013 at the latest in accordance with Article 37 of the Treaty.

Article 106

ENTRY INTO FORCE

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 July 2006.

For the Council

The President

E. TUOMIOJA

(1) OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 173/2005 (OJ L 29, 2.2.2005, p. 3).

(2) OJ L 161, 26.6.1999, p. 54.

(3) Commission Regulation (EC) No 366/2001 of 22 February 2001 laying down detailed rules for implementing the measures provided for in Council Regulation (EC) No 2792/1999 (OJ L 55, 24.2.2001, p. 3).

ANNEX I

The annual breakdown of commitment appropriations for the European Fisheries Fund, in 2004 prices, as referred to in Article 12, shall be as follows:

(in EUR)

2007	2008	2009	2010	2011	2012	2013
538 501 708	544 387 564	551 260 557	551 264 533	552 866 449	554 350 809	556 368 380

ANNEX II

Aid intensity

- a) For all the measures referred to in Title IV, the limits of public contribution granted to an operation (A), and, where appropriate, by the private beneficiaries (B), shall be as set out in the Table below, expressed as a percentage of total eligible costs being the sum of (A) + (B).

For the Table below, the operations will fall within groups as follows:

	Group 1	Group 2	Group 3	Group 4
Regions covered by the Convergence objective and outlying Greek islands	A ≤ 100% B ≥ 0%	A ≤ 40% B ≥ 60% (*) (**)	A ≤ 80% B ≥ 20%	A ≤ 60% B ≥ 40% (***)
Regions not covered by the Convergence objective	A ≤ 100% B ≥ 0%	A ≤ 40% B ≥ 60% (*) (**)	A ≤ 60% B ≥ 40%	A ≤ 40% B ≥ 60% (***)
Outermost regions	A ≤ 100% B ≥ 0%	A ≤ 50% B ≥ 50% (*) (**)	A ≤ 80% B ≥ 20%	A ≤ 75% B ≥ 25%

(*) In the case of operations referred to in Article 25(3) the (B) rates for Group 2 are increased by 20 percentage points. The (A) rates are reduced accordingly.

(**) In the case of operations referred to in Article 26(2) (investment on board within the meaning of Article 25 in small scale coastal fishing vessels), the (B) rates for Group 2 may be reduced by 20 percentage points. The (A) rates are increased accordingly.

(***) In case of operations referred to in Articles 29 and 35 when undertaken by enterprises not covered by the definition in Article 3(f) with less than 750 employees or with a turnover of less than EUR 200 million, the (B) rates are increased in the regions covered by the Convergence objective, with the exception of the outlying Greek islands, by 30 percentage points and in the regions not covered by the Convergence objective by 20 percentage points. The (A) rates are reduced accordingly.

Group 1

Operations provided for in Article 23 (public aid for permanent cessation of fishing activities), Article 24 (public aid for temporary cessation of fishing activities), Article 26(3) (socio-economic compensation for small-scale coastal fishers), Article 26(4) (premiums for fishers and vessels owners involved in small-scale coastal fishing), Article 27 (socio-economic compensation for the management of the Community fishing fleet), Article 30 (aqua-environmental measures), Article 31 (public health measures), Article 32 (animal health measures), the first subparagraph of Article 33(2) (investments on inland fishing facilities), Article 33(3) (reassignment of vessels operating in inland fishing), Article 37 (collective actions), Article 38 (measures intended to protect and develop aquatic fauna and flora), Article 39 (fishing ports, landing sites and shelters), Article 40 (development of new markets and promotional campaigns), Article 41 (pilot projects), Article 42 (modification for reassignment of fishing vessels), Article 44 (eligible measures for the sustainable development of fisheries areas) and Article 46 (technical assistance).

Group 2

Operations provided for under Article 25(1), (2), (6), (7) and (8) (investment on board fishing vessels), Article 26(2) (investment on board within the meaning of Article 25 in small scale coastal fishing vessels), the second subparagraph of Article 33(2) (investments on board vessels operating in inland fishing) and Article 44 (eligible measures for the sustainable development of fisheries areas).

Following the application of (*) and (**) where the EFF finances operations referred to in Article 25(3) in favour of small scale coastal fishing vessels, the (B) rates for Group 2 will be:

- for the regions covered by the Convergence objective, the outlying Greek islands and the regions not covered by the Convergence objective equal or more than 60 percentage points (B ≥ 60%),
- and
- for the outermost regions equal or more than 50 percentage points (B ≥ 50%).

Group 3

Operations provided for in Article 37 (collective actions), Article 38 (measures intended to protect and develop aquatic fauna and flora), Article 39 (fishing ports, landing sites and shelters), Article 41 (pilot projects) and Article 44 (eligible measures for the sustainable development of fisheries areas).

Group 4

Operations provided for in Article 29 (measures for productive investments in aquaculture), the first subparagraph of Article 33(2) (investments on inland fishing facilities), Article 35 (eligible measures in processing and marketing), Article 40 (development of new markets and promotional campaigns) and Article 44 (eligible measures for the sustainable development of fisheries areas).

- (b) The managing authority shall determine with respect to operations concerning:
- (i) Article 37 (collective actions), Article 38 (measures intended to protect and develop aquatic fauna and flora), Article 39 (fishing ports, landing sites and shelters) and Article 41 (pilot projects) whether they fall under group 1 or 3,
 - (ii) Article 40 (development of new markets and promotional campaigns) and the first subparagraph of Article 33(2) (investments on inland fishing facilities) whether they fall under group 1 or 4,
 - (iii) and Article 44 (eligible measures for the sustainable development of fisheries areas) whether they fall under groups 1, 2, 3 or 4.

The managing authority shall determine the above under (i), (ii) and (iii) on the basis of the following considerations:

- collective versus individual interest,
- collective versus individual beneficiary (producers' organisations, organisations representing the trade),
- public access to the results of the operation versus private ownership and control,
- financial participation by collective bodies and research institutions.

COMMISSION REGULATION (EC) No 498/2007

of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund ⁽¹⁾, and in particular Article 102 thereof,

Whereas:

(1) Regulation (EC) No 1198/2006 (the basic Regulation) replaces Council Regulations (EC) No 1263/1999 ⁽²⁾ and (EC) No 2792/1999 ⁽³⁾ taking into account new developments in the field of fisheries, fisheries areas and inland fishing. It is therefore appropriate to lay down detailed rules for implementing the basic Regulation.

(2) Detailed rules should be laid down for the presentation of operational programmes. In order to facilitate the establishment of the operational programmes and their examination and approval by the Commission, common rules should be laid down for the structure and content of such programmes, based in particular on the requirements set out in Article 20 of the basic Regulation.

(3) As regards support for measures for the adaptation of the Community fishing fleet, the Member States should present in their operational programmes the methods for the calculation of premiums.

(4) As regards the possibility provided for under Article 25(4) of the basic Regulation to achieve the reduction of engine power by a group of vessels, the conditions for this possibility should be specified.

(5) Certain terms used with special reference to aquaculture and the processing and marketing of fisheries and aquaculture products, should be defined to ensure that they are uniformly understood.

(6) As regards support for productive investments in aquaculture and investments in processing and marketing, the Member States should explain in their operational programmes how they will ensure that priority is given to micro and small enterprises.

(7) As regards support for animal health measures, detailed conditions should be laid down to ensure compliance with the Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals ⁽⁴⁾.

(8) As regards support for measure of common interest, the eligible expenditure should be defined.

(9) As regards the fisheries areas referred to in Article 43 of the basic Regulation, the conditions for their selection should be specified.

(10) The public-private partnerships supported under Article 45 of the basic Regulation should comply with certain detailed conditions.

(11) As regards support for the sustainable development of fisheries areas, the procedures for selecting groups should be transparent in order to ensure that pertinent and high quality local development strategies are selected for support.

(12) Rules common to several measures should be laid down. In particular, in order to ensure a better targeting of investment operations, a set of common rules for the definition of eligible expenditure should be made available.

(13) In order to guarantee that information on possible funding opportunities is disseminated widely to all interested parties and for the sake of transparency, the minimum content of the information measures needed to inform potential beneficiaries about the financing opportunities offered jointly by the Community and the Member States through the European Fisheries Fund (EFF), including an obligation to publicise the steps that a potential beneficiary should take in order to submit an application for funding and the selection criteria that are to be used, should be set out taking into account the principle of proportionality.

(1) OJ L 223, 15.8.2006, p. 1.

(2) OJ L 161, 26.6.1999, p. 54.

(3) OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 485/2005 (OJ L 81, 30.3.2005, p. 1).

(4) OJ L 328, 24.11.2006, p. 14.

(14) In order to enhance transparency regarding the use of EFF assistance, the list of beneficiaries, the names of the operations and the amount of the public funding allocated to operations should be published annually by Member States, electronically or otherwise. Making such information accessible to the public aims to strengthen the transparency of the Community's action in the area of the development of the fisheries sector, fisheries areas and inland fishing, to enhance the sound financial management of the public funds involved and, in particular, to reinforce control of the public money used and finally to avoid any distortion of competition between beneficiaries of EFF measures. Given the overriding weight of the objectives pursued, it is justified with regard to the principle of proportionality and the requirement of the protection of personal data, to provide for the general publication of the relevant information as it does not go beyond what is necessary in a democratic society and for prevention of irregularities.

(15) In order to ensure a better implementation of the information measures and to allow a better exchange of information between the Member States and the Commission on the information and publicity strategies and results, contact persons responsible for the information and publicity measures should be designated.

(16) Building on the experience of the 2000-2006 programming period, it is necessary to set out in detail the conditions which financial engineering instruments should fulfil in order to be funded under an operational programme.

(17) With regard to Article 59 of the basic Regulation and in the light of the experience gained, it is necessary to lay down the obligations which the managing authorities should have with regard to beneficiaries in the phase leading to the selection and approval of the operations to be funded, with regard to the aspects which the verifications of the expenditure declared by the beneficiary should cover, including administrative verifications of the applications for reimbursement, and on-the-spot verifications of individual operations and with regard to the conditions to be observed when on-the-spot verifications are carried out on a sample basis.

(18) It is also necessary to set out in detail the information which should be included in the accounting records of operations and the information to be kept as data on implementation which the managing authorities should record, store and submit to the Commission upon request.

(19) In order to ensure that expenditure under operational programmes can be properly audited, it is necessary to set out the criteria that an audit trail should comply with in order to be considered adequate.

(20) The audit of operations is carried out under the responsibility of the audit authority. To ensure that the scope and effec-

tiveness of those audits are adequate and that they are carried out according to the same standards in all Member States, it is necessary to set out the conditions which those audits should fulfil.

(21) Experience has shown that it is necessary to set out in detail the basis for the sampling of operations to be audited, which the audit authority should observe in establishing or approving the sampling method, including certain technical criteria to be used for a random statistical sample and factors to be taken into account for a complementary sample.

(22) In order to simplify and harmonise standards for the preparation and presentation of the audit strategy, the annual control report and the closure declarations for which the audit authority is responsible under Article 61 of the basic Regulation, it is necessary to lay down detailed rules concerning their content and specify the nature and quality of the information on which they rely.

(23) In order to ensure the most effective application of Article 87 of the basic Regulation with regard to the availability of documents and the rights of the Court of Auditors and the Commission to have access to all supporting documents regarding expenditure and audits, managing authorities should ensure that information on the identity and location of the bodies holding the supporting documents is readily available and those documents should be readily provided to a minimum list of persons and bodies. For the same purpose, it is necessary to set out which data carriers may be considered as commonly accepted for the purpose of keeping such documents. To that end, the national authorities should lay down the procedures necessary to ensure that the documents kept are in conformity with the originals, when this is relevant, and can be relied on for audit purposes.

(24) In order to harmonise standards for the certification of expenditure and for the preparation of applications for payments, the content of such certificates and applications should be laid down and the nature and quality of the information, on which they rely, specified. Detailed procedures should be set out for keeping, in accordance with Article 60(f) of the basic Regulation, an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation and for informing the Commission accordingly.

(25) Under Article 71 of the basic Regulation, the Member States are required before the submission of the first application for interim payment or at least within twelve months after the approval of the operational programme, to submit to the Commission a description of the management and control systems, a report setting out the results of an assessment of the systems set up and an opinion on their compliance with the provisions of that Regulation on management and control systems. Since those documents are among the principal elements that the

Commission relies on, in the context of the shared management of the Community budget, to satisfy itself that the financial assistance concerned is used by the Member States in accordance with the applicable rules and principles necessary for protecting the Community's financial interests, it is necessary to set out in detail the information that such documents should contain and the basis for the assessment and the opinion.

(26) Article 57 of the basic Regulation provides that the arrangements for auditing are to be proportionate to the total amount of public expenditure allocated to the operational programme concerned. Where the public expenditure allocated to the operational programme is limited, it is appropriate that there should be an option for the Member State to rely more on national bodies and rules for carrying out certain functions related to the control and audit arrangements and that the Commission should therefore specify which verifications, which audits of operations and which obligations may be carried out and executed according to national rules and by national bodies. In those circumstances, the Commission should also differentiate between the means by which Member States have to fulfil the functions of certification of expenditure and verification of the management and control system and establish the conditions under which it may limit its own audit and rely on assurances provided by national bodies.

(27) As part of their management and control obligations, Member States are required to report and monitor irregularities. Detailed rules to implement that requirement were laid down in Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums unduly paid in connection with the financing of the structural policies and the organisation of an information system in this field ⁽¹⁾. It is appropriate, for reasons of clarity and simplification, to incorporate those rules into this Regulation.

(28) Provision should be made for the Commission to reimburse judicial costs when it requests a Member State to initiate or continue legal proceedings with a view to recovering amounts unduly paid following an irregularity, and for it to be provided with information enabling it to decide on the apportionment of the loss from irrecoverable amounts under Article 70(2) of the basic Regulation. Regular contact should also be provided for between the Commission and the Member States on the subject of irregularities, for the use of the information provided for making risk analyses and compiling reports, and for the provision of information to the relevant committees.

(29) In order to limit the administrative burden imposed by the reporting system while safeguarding the necessary level of information, Member States should, without prejudice to the obligations arising directly from Article 60(f) of the basic Regulation, not be obliged to report irregularities involving amounts below a certain threshold unless the Commission expressly so requests.

(30) The use of electronic means for the exchange of information and financial data leads to simplification, increased efficiency and transparency and to savings in time. In order to exploit those advantages fully, while preserving the security of exchanges, a common computer system should be established as well as a list of documents of common interest to the Commission and the Member States. It is therefore necessary to specify the format each document should have, and to provide a detailed description of the information such documents should contain. For the same reasons, it is necessary to specify how such a computer system functions with regard to the identification of the party responsible for uploading the documents and any updates thereto.

(31) In accordance with Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures ⁽²⁾, taking account of the level of security and confidentiality required for the financial management of funds from the EFF, of the state of the art and of a cost-benefit analysis, it is necessary to require the use of an electronic signature.

(32) In order to ensure the quick development and proper functioning of the common computer system, the cost of its development should be financed by the general budget of the European Communities under Article 46(1) of the basic Regulation, and the costs of the interface with national, regional, and local computer systems should be eligible for a financial contribution from EFF under Article 46 of that Regulation.

(33) In the light of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽³⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽⁴⁾, it is necessary to provide, in relation to the information and publicity measures and the audit work under this Regulation, that the Commission and the Member States should prevent any unauthorised disclosure of, or access to, personal data, and to specify the purpose for which the Commission and the Member States may process such data.

(1) OJ L 178, 12.7.1994, p. 43. Regulation as amended by Regulation (EC) No 2035/2005 (OJ L 328, 15.12.2005, p. 8).

(2) OJ L 13, 19.1.2000, p. 12.

(3) OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

(4) OJ L 8, 12.1.2001, p. 1.

(34) Commission Regulations (EC) No 2722/2000 of 13 December 2000 establishing the conditions under which the Financial Instrument for Fisheries Guidance (FIFG) may make a contribution towards the eradication of pathological risks in aquaculture ⁽¹⁾, (EC) No 908/2000 of 2 May 2000 laying down detailed rules for calculating aid granted by Member States to producer organisations in the fisheries and aquaculture sector ⁽²⁾ and (EC) No 366/2001 of 22 February 2001 laying down detailed rules for implementing the measures provided for in Council Regulation (EC) No 2792/1999 ⁽³⁾ should be repealed.

(35) The measures provided for in this Regulation are in accordance with the opinion of the European Fisheries Fund Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER I General provisions

Article 1

SUBJECT MATTER

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 1198/2006 (the basic Regulation) as regards the following:

- (a) the structure and transmission of operational programmes;
- (b) fisheries measures;
- (c) the evaluation of operational programmes;
- (d) information and publicity;
- (e) financial engineering instruments;
- (f) management, monitoring and control;
- (g) irregularities;
- (h) electronic exchange of data;
- (i) personal data.

Article 2

SPECIFIC ARRANGEMENTS FOR CERTAIN OPERATIONAL PROGRAMMES

For operational programmes for which the total eligible public expenditure does not exceed EUR 90 million at 2004 prices, specific arrangements are laid down in Article 28(2) and Articles 51, 52 and 53.

⁽¹⁾ OJ L 314, 14.12.2000, p. 10.

⁽²⁾ OJ L 105, 3.5.2000, p. 15. Regulation as amended by Regulation (EC) No 2438/2000 (OJ L 280, 4.11.2000, p. 37).

⁽³⁾ OJ L 55, 24.2.2001, p. 3.

CHAPTER II Structure and transmission of the operational programmes

Article 3

STRUCTURE AND TRANSMISSION OF THE OPERATIONAL PROGRAMMES

1. The content of the operational programme, referred to in Article 20 of the basic Regulation, shall be established in accordance with Part A of Annex I to this Regulation and the financing plan as set out in Part B of that Annex.

The *ex ante* evaluation, referred to in Article 48 of the basic Regulation, shall be annexed to the operational programme.

2. Member States shall make available to the Commission an electronic version of their operational programme, updated following each programme revision. Member States shall submit to the Commission requests for programme revisions, referred to in Article 18 of the basic Regulation, by electronic means in accordance with Article 65 of this Regulation. Member States shall submit to the Commission their requests for revision of the operational programme, affecting the European Fisheries Fund (EFF) contribution for the ongoing year, by 30 September of that year at the latest.

CHAPTER III Priority axes

Section 1

Priority axis 1: Measures for the adaptation of the Community fishing fleet

Article 4

PUBLIC AID FOR PERMANENT CESSATION OF FISHING ACTIVITIES

1. After the permanent cessation of fishing activities, the fishing vessel concerned shall be permanently deleted from the fishing fleet register of the Community and, where appropriate, the fishing licence associated with it shall be permanently cancelled.

2. The operational programme shall specify the methods for calculating the premiums granted under Article 23 of the basic Regulation.

3. Where the permanent cessation of fishing activities of a fishing vessel is achieved by its reassignment as referred to in Article 23(1)(b) of the basic Regulation, Member States shall adjust the level of the premium accordingly, taking into account

criteria such as the market value of the fishing licence for the vessel and the residual value of the vessel.

4. If a fishing vessel is lost between the date of the decision to grant the premium and the actual date of permanent cessation of fishing activities, the management authority shall make a financial correction for the amount of the compensation paid by the insurance.

Article 5

PUBLIC AID FOR THE TEMPORARY CESSATION OF FISHING ACTIVITIES

1. The operational programme shall specify the methods for calculating the premiums granted under Article 24 of the basic Regulation.

2. For the purposes of Article 24(2) of the basic Regulation, 'Community financial assistance allocated to the sector' shall mean the EFF contribution to the operational programme of the Member State concerned.

Article 6

INVESTMENTS ON BOARD FISHING VESSELS AND SELECTIVITY

1. For the purposes of Article 25 of the basic Regulation, the managing authority shall be responsible for assessing compliance with paragraphs 2 to 5 of this Article and shall provide the Commission with all relevant documents upon request.

2. The total eligible expenditure to be supported per fishing vessel over the entire programming period under Article 25 of the basic Regulation, except under paragraph 6(e) of that Article, shall not exceed a maximum amount established on the basis of objective criteria, such as those listed in Article 23(3) of that Regulation and included in the operational programme.

3. The 20% reduction in engine power may be achieved by a group of vessels as provided for in Article 25(4) of the basic Regulation, subject to all the following conditions:

- (a) all the vessels belonging to the same group are individually identified;
- (b) all the vessels belonging to the same group operate in the same management areas;
- (c) all the vessels belonging to the same group use the same main fishing gear as listed in Appendix III (section C) of Commission Regulation (EC) No 1639/2001 ⁽¹⁾;
- (d) all the vessels belonging to the same group do not exceed fifty in number.

4. The exits from the fishing fleet of fishing capacity with public aid shall not be taken into account in the calculation of the 20% reduction in power that may be achieved by a group of vessels as provided for in Article 25(4) of the basic Regulation.

5. Financial support granted under Article 25(6)(e) of the basic Regulation shall be granted only for equipment and modernisation works for the protection of catch and gear from wild predator species protected under Council Directives 79/409/EEC ⁽²⁾ and 92/43/EEC ⁽³⁾.

Article 7

SMALL-SCALE COASTAL FISHING

1. Where the private financial participation rate is reduced in accordance with Article 26(2) of the basic Regulation, the rate of the public contribution shall be increased accordingly. The contribution from the EFF shall be calculated in accordance with the rates provided for in Article 53 of the basic Regulation in relation to such resulting public contribution.

2. The operational programme shall specify the methods for calculating premiums granted under Articles 26(3) and 26(4) of the basic Regulation in favour of small-scale coastal fishing.

3. For the purposes of Article 26(4)(b) of the basic Regulation 'fisheries products' shall mean fishery products originating from the catches of small-scale coastal fishing vessels.

Article 8

SOCIO-ECONOMIC COMPENSATION FOR THE MANAGEMENT OF THE COMMUNITY FISHING FLEET

1. The operational programme shall specify the methods for calculating the socio-economic compensation for the management of the Community fishing fleet granted under Article 27 of the basic Regulation.

2. Support provided for in Article 27(1)(d) of the basic Regulation for early retirement shall be eligible for a contribution from the EFF, even where it is paid to the beneficiaries after 31 December 2015, provided that it has been secured for this purpose in a blocked account before that date.

(1) OJ L 222, 17.8.2001, p. 53.
 (2) OJ L 103, 25.4.1979, p. 1.
 (3) OJ L 206, 22.7.1992, p. 7.

Section 2

Priority axis 2: Aquaculture, inland fishing, processing and marketing of fishery and aquaculture products*Article 9***SCOPE OF INTERVENTION IN AQUACULTURE PRODUCTION**

Support under Article 28(6) of the basic Regulation may cover the costs of assessments provided for in Council Directive 85/337/EEC ⁽¹⁾.

*Article 10***MEASURES FOR PRODUCTIVE INVESTMENTS IN AQUACULTURE**

1. For the purpose of Article 29(1)(a), (b) and (c) of the basic Regulation, the following definitions shall apply:

- (a) 'new species': species for which aquaculture production in the Member State is low or non-existent and for which there are good market prospects;
- (b) 'species with good market prospects': species for which the forecast medium-term trend shows that market demand is likely to exceed supply;
- (c) 'normal practice in the aquaculture sector': aquaculture activities carried out in compliance with binding legislation, whether it relates to health, veterinary or environmental matters;
- (c) 'traditional aquaculture': time-honoured practices which are linked to the social and cultural heritage of a given area;
- (d) 'traditional aquaculture': time-honoured practices which are linked to the social and cultural heritage of a given area.

2. The support provided for in Article 29 of the basic Regulation, may cover aquaculture service vessels. Fishing vessels as defined in Article 3(c) of Council Regulation (EC) No 2371/2002 ⁽²⁾ shall not be regarded as aquaculture service vessels even where they are exclusively used in aquaculture.

3. Without prejudice to Article 35(6) of the basic Regulation, support under Article 29 of that Regulation may cover investments related to on-farm retail trade where such trade forms an integral part of the aquaculture farm.

4. Where Member States use the possibility provided for in Article 29(1)(a) of the basic Regulation, they shall put in place mechanisms to make available to the management authority the results of prospective market analysis on aquaculture species.

5. For the measures provided for in Article 29 of the basic Regulation, Member States shall describe in their operational programme how aid is to be prioritised to micro and small enterprises.

*Article 11***AQUA-ENVIRONMENTAL MEASURES**

1. Where support is granted to beneficiaries for the purposes referred to in Article 30 of the basic Regulation, Member States shall check that those beneficiaries comply with the aqua-environmental commitments at the latest three years from the date of approval of the operation and at the end of the implementation of the operation.

2. Support provided for in Article 30(2)(b) of the basic Regulation, shall concern only costs for participation in a Community eco-management and audit scheme (EMAS) that are prior to the approval of the scheme for an individual enterprise.

3. For the purpose of Article 30(2)(c) of the basic Regulation, 'organic aquaculture' shall mean the aquaculture activities producing farmed aquatic species in accordance with the organic production method within the meaning of Article 2 of Council Regulation (EEC) No 2092/91 ⁽³⁾ and which bear indications to that effect. Until the adoption of detailed production rules by the Community, including rules on conversion, applicable to organic aquaculture, national rules or, in the absence thereof, private standards, applicable to organic aquaculture, accepted or recognised by the Member States, shall apply.

4. Support provided for in Article 30(2)(d) of the basic Regulation, may be granted only for specific restrictions or requirements for Nature 2000 areas, imposed by the relevant national measures for the implementation of the Directives 79/409/EEC and 92/43/EEC.

5. For the purpose of Article 30(3) of the basic Regulation, 'normal good aquaculture practice' shall mean compliance with binding legislation, whether it relates to health, veterinary or environmental matters, and the use of production protocols that prevent the wastage of resources and avoidable pollution.

(1) OJ L 175, 5.7.1985, p. 40.

(2) JO L 358 du 31.12.2002, p.59.

(3) OJ L 198, 22.7.1991, p. 1.

*Article 12***ANIMAL HEALTH MEASURES**

1. Support provided for in Article 32 of the basic Regulation, may cover:

(a) for exotic diseases in aquaculture as listed in Article 3 of Council Decision 90/424/EEC ⁽¹⁾, the control measures applied pursuant to Section 3 of Chapter V of Directive 2006/88/EC;

(b) for non-exotic diseases in aquaculture as listed in the Annex of Decision 90/424/EEC, eradication programmes drawn up and approved pursuant to Article 44(2) of Directive 2006/88/EC.

2. The managing authority of the operational programme shall decide whether it will contribute to the financing of control measures referred to in paragraph 1(a), or an eradication programme referred to in paragraph 1(b), and adopt the detailed arrangements for its financial participation before submitting the measures or the programme, respectively, in accordance with the provisions of Decision 90/424/EEC.

3. If the Commission does not approve, in accordance with Article 24 of Decision 90/424/EC, the control measures or the eradication programme referred to in paragraph 1 of this Article, the committed contribution shall be immediately returned to the budget of the operational programme.

4. If the value of the eligible costs in the action approved by the Commission in accordance with Article 24 of Decision 90/424/EC is less than the sum committed by the management authority, the difference released in this way may be reused by the Member State for its operational programme.

5. Support provided for in Article 32 of the basic Regulation, shall not cover surveillance activities intended to demonstrate freedom from a disease in order to obtain the recognition of the officially disease-free status or fixed costs such as the costs of official veterinary services.

*Article 13***INLAND FISHING**

1. For the purpose of Article 33 of the basic Regulation, 'vessels operating exclusively in inland waters' shall mean vessels engaged in commercial fishing in inland waters and not included in the Community fishing fleet register.

2. For the investments provided for in the second subparagraph of Article 33(2) and Article 25 of the basic Regulation, vessels of less than 12 metres, not using towed gear and operating in inland fishing, may be supported with the same aid intensity as provided for small-scale coastal vessels referred to in Article 26 of that Regulation.

3. Member States shall determine in their operational programmes how they will ensure that the investments supported under Article 33 of the basic Regulation do not jeopardise the equilibrium between the fleet size and the corresponding fish resources available.

*Article 14***INVESTMENTS IN PROCESSING AND MARKETING**

1. Investments for the extractions from fishmeal or fish oil of dioxin or other substances harmful to human health may be supported by the EFF under Article 34 of the basic Regulation even where the final products are intended to be used and processed for purposes other than human consumption.

2. For the measures provided for in Article 35 of the basic Regulation, Member States shall describe in their operational programmes how aid will be prioritised to small and micro enterprises.

Section 3**Priority axis 3: Measures of common interest***Article 15***COLLECTIVE ACTIONS**

1. Support provided for in Article 37 of the basic Regulation shall not cover costs related to exploratory fishing.

2. Support provided for in point (n) of the first paragraph of Article 37 of the basic Regulation may be granted for:

(a) the creation of producer organisations in order to facilitate the setting up and administrative operation of producer's organisation recognised under Council Regulation (EC) No 104/2000 ⁽²⁾ after 1 January 2007;

(b) the implementation of plans of producer organisations that have been specifically recognised under Article 12 of Regulation (EC) No 104/2000 in order to facilitate the implementation of their plans to improve the quality of their products;

or

(c) the restructuring of producers' organisations in order to increase their efficiency in line with market requirements.

3. The support referred to in paragraph 2(b) of this Article shall be degressive over three years following the date of the specific recognition under Article 12 of Regulation (EC) No 104/2000.

(1) OJ L 224, 18.8.1990, p. 19.

(2) OJ L 17, 21.1.2000, p. 22.

*Article 16***MEASURES INTENDED TO PROTECT AND DEVELOP
AQUATIC FAUNA AND FLORA**

1. Support provided for in point (a) of the first subparagraph of Article 38(2) of the basic Regulation shall concern measures for the construction and installation of artificial reefs or other facilities made up of long lasting elements.

Support may cover work preliminary to installation, including studies, components, signalling, transport and the assembly of the facilities and scientific monitoring.

2. Support provided for in Article 38(2) of the basic Regulation shall not cover fish aggregating devices.

3. Support provided for in point (c) of the first subparagraph of Article 38(2) of the basic Regulation may cover the expenditure on the necessary conservation measures for sites belonging to the Nature 2000 European Ecological Network. Support may cover the preparation of management plans, strategies and schemes, infrastructure including depreciation and equipment for reserves, training and education for the employees of reserves as well as relevant studies.

4. Support provided for in point (c) of the first subparagraph of Article 38(2) of the basic Regulation shall not cover compensation for rights foregone, loss of income and salaries of employees.

5. For the purposes of second subparagraph of Article 38(2) of the basic Regulation, 'direct restocking' shall mean the activity of releasing live aquatic organisms, whether the animals are produced in hatcheries or fished elsewhere.

*Article 17***LANDING SITES**

Where support is given for investments to restructure landing sites and to improve the conditions for fish landed by coastal fishers in existing landing sites, as provided for in the second subparagraph of Article 39(1) of the basic Regulation, Member States shall ensure compliance with the relevant sanitary rules and the enforcement of control measures in those landing sites.

*Article 18***DEVELOPMENT OF NEW MARKETS
AND PROMOTIONAL CAMPAIGNS**

1. Support provided for promotional measures, as provided for in Article 40(3)(a), (d), (e) and (g) of the basic Regulation, may cover in particular:

- (a) the costs of advertising agencies and other service providers involved in the preparation and implementation of promotional campaigns;
- (b) the purchase or hire of advertising space and the creation of slogans and labels for the duration of promotional campaigns;
- (c) expenditure on publishing and external staff, required for the campaigns;
- (d) the organisation of and participation in trade fairs and exhibitions.

2. As regards products protected under Council Regulation (EC) No 510/2006 ⁽¹⁾, support may be granted for their promotion only from the date on which the name has been entered in the register as provided for in Article 7 of that Regulation.

*Article 19***PILOT PROJECTS**

1. No support shall be granted under Article 41 of the basic Regulation for exploratory fishing.

2. Where support is given for a pilot project, as provided for in Article 41 of the basic Regulation, the managing authority shall ensure that the pilot project includes adequate scientific follow up and that an adequate qualitative assessment of the technical reports referred to in Article 41(3) of that Regulation is made.

3. Pilot projects shall not be of a directly commercial nature. Any profit generated during the implementation of a pilot project shall be deducted from the public aid granted to the operation.

4. Where the total costs of a pilot project exceed EUR 1 million, the managing authority shall, prior to its approval, require an assessment by an independent scientific body.

*Article 20***MODIFICATION FOR REASSIGNMENT OF FISHING VESSELS**

Support, as provided for in Article 42 of the basic Regulation, may be granted for the modification of a fishing vessel after its reassignment only if that vessel has been deleted permanently from the fishing fleet register and, where appropriate, the fishing licence associated with it has been permanently cancelled.

Section 4

Priority axis 4: Sustainable development of fisheries areas

Article 21

OBJECTIVES AND MEASURES

The support granted under Article 43 of the basic Regulation shall be for:

- (a) implementing local development strategies as referred to in Article 45(2) of the basic Regulation and Article 24 of this Regulation with a view to achieving the objectives referred to in Article 43(2)(a), (b) and (c) of the basic Regulation and through the eligible measures provided for in Article 44(1)(a) to (g), (i) and (j) and Article 44(2) and (3) of that Regulation;
- (b) implementing inter-regional and trans-national cooperation among the groups in fisheries areas as referred to in Article 44(1)(h) of the basic Regulation, mainly through networking and disseminating best practices with a view to achieving the objective referred to in Article 43(2)(d) of that Regulation.

Article 22

GEOGRAPHICAL APPLICATION OF PRIORITY AXIS 4

1. The operational programme shall specify the procedures and the criteria for selecting the fisheries areas. Member States shall decide how they will apply Articles 43(3) and (4) of the basic Regulation.
2. The fisheries areas selected do not necessarily have to coincide with a national administrative area or with zones established for the purposes of eligibility under the objectives of the Structural Funds.

Article 23

PROCEDURES AND CRITERIA FOR SELECTING THE GROUPS

1. A group, as referred to in Article 45(1) of the basic Regulation, shall be composed in such a way that it is able to draw up and implement a development strategy in the area concerned.

The relevance and effectiveness of the partnership shall be assessed on the basis its composition, as well as its transparency and clarity in the allocation of tasks and responsibilities.

The capacity of the partners to carry out the tasks assigned to them and the effectiveness and decision-making shall be guaranteed.

The partnership shall comprise, including at the decision-making level, representatives of the fisheries sector and of other relevant local socio-economic sectors.

2. The administrative capacity of the group shall be considered adequate where the group:
 - (a) either selects from the partnership, one partner as the administrative leader who will guarantee the satisfactory operation of the partnership;

or

- (b) comes together in a legally constituted common structure, the formal constitution of which guarantees the satisfactory operation of the partnership.

3. If the group is entrusted with the administration of public funds, its financial capacity shall be assessed:
 - (a) with regard to paragraph 2(a), in terms of the ability of the administrative leader to administer the funds;
 - (b) with regard to paragraph 2(b), in terms of the ability of the common structure to administer the funds.

4. The groups for the implementation of local development strategies shall be selected no later than four years from the date of the approval of the operational programme. Longer time limits may be granted where the managing authority organises more than one selection procedure for the groups.

5. The operational programme shall specify:
 - (a) the procedures and the criteria for selecting the groups, as well as the number of groups that the Member State intends to select; the selection criteria referred to in Article 45 of the basic Regulation and in this Article shall constitute a minimum and may be supplemented by specific national criteria; the procedures shall be transparent, provide adequate publicity and ensure competition where applicable, between the groups putting forward local development strategies;
 - (b) the management arrangements and the procedures for the mobilisation and circulation of financial flows as far as the beneficiary; it shall describe in particular how the groups are integrated into the management, monitoring and control systems.

Article 24

LOCAL DEVELOPMENT STRATEGY

The local development strategy proposed by the group in accordance with Article 45(2) of the basic Regulation shall:

- (a) be integrated and be based on interaction between actors, sectors and operations and go beyond a mere collection of operations or a juxtaposition of sectoral measures;

- (b) be consistent with the needs of the fisheries area particularly in socio-economic terms;
- (c) prove its sustainability;
- (d) be complementary to other interventions made in the area concerned.

Article 25

IMPLEMENTING LOCAL DEVELOPMENT STRATEGY

1. Notwithstanding Article 45(2) of the basic Regulation, the group shall choose the operations to be financed under the local development strategy.
2. If the group is entrusted with the administration of public funds, it shall create a separate account for the implementation of the local development strategy.

Section 5

Common provisions for several measures

Article 26

COMMON PROVISIONS FOR PRIORITY AXES 1 TO 4

The following expenditure shall not be eligible for a contribution from EFF:

- (a) for the purposes of the Articles 28(3) and 34(3), point (i) of the first paragraph of Article 37 and Article 44(2) of the basic Regulation, the purchase of infrastructure used for lifelong learning for an amount exceeding 10% of total eligible expenditure of the operation concerned;
- (b) the part of the cost of vehicles not directly linked to the operation concerned.

CHAPTER IV

Evaluation of the operational programmes

Article 27

INTERIM EVALUATIONS

Member States shall forward the interim evaluations referred to in Article 49 of the basic Regulation by 30 June 2011 at the latest. The Commission may decide to interrupt the payment deadline, in accordance with Article 88 of the basic Regulation, where a Member State has not complied with that obligation.

CHAPTER V

Information and publicity

Article 28

DESCRIPTION OF THE INFORMATION AND PUBLICITY MEASURES IN THE OPERATIONAL PROGRAMME AND IN THE ANNUAL AND FINAL REPORTS ON IMPLEMENTATION

1. For the purpose of Article 20(1)(g)(v) of the basic Regulation, the operational programme shall include at least the following elements:

- (a) the content of the information and publicity measures to be taken by the Member State or the managing authority aimed at potential beneficiaries and beneficiaries and their indicative budget;
- (b) the content of the information and publicity measures to be taken by the Member State or the Managing authority for the public and their indicative budget;
- (c) the administrative departments or bodies responsible for the implementation of information and publicity measures;
- (d) an indication of how the information and publicity measures are to be evaluated in terms of visibility and awareness of the operational programme and of the role played by the Community.

2. For the operational programmes referred to in Article 2, paragraphs 1(c) and (d) of this Article shall not apply.

3. The annual reports and final report on implementation of an operational programme, referred to in Article 67 of the basic Regulation, shall include:

- (a) information and publicity measures carried out;
- (b) the arrangements for the information and publicity measures referred to in point (d) of the second paragraph of Article 31 of this Regulation including, where applicable, the electronic address where such data may be found.

The annual report on implementation covering the year 2010 and the final report on implementation referred to in Article 67 of the basic Regulation shall contain a chapter assessing the results of the information and publicity measures in terms of visibility and awareness of the operational programme and of the role played by the Community, as provided for in paragraph 1(d) of this Article.

*Article 29***INFORMATION MEASURES FOR POTENTIAL BENEFICIARIES**

1. For the purposes of Article 51(2)(a) of the basic Regulation, the managing authority shall ensure that the operational programme is disseminated widely with details of the financial contribution from the EFF and that it is made available to all interested parties. The managing authority shall ensure, in addition, that information on the financing opportunities offered by joint assistance from the Community and the Member State through the operational programme is disseminated as widely as possible.

2. The managing authority shall provide potential beneficiaries with clear and detailed information, on at least the following:

- (a) the conditions of eligibility to be met in order to qualify for financing under the operational programme;
- (b) a description of the procedures for examining applications for funding and of the time periods involved;
- (c) the criteria for selecting the operations to be financed;
- (d) the contacts at national, regional or local level who can provide information on the operational programme.

3. The managing authority shall inform potential beneficiaries of the publication provided for in point (d) of the second paragraph of Article 31.

4. The managing authority shall involve in information and publicity measures, in accordance with national laws and practices, at least one of the following bodies that can widely disseminate the information listed in paragraph 2:

- (a) national, regional and local authorities and development agencies;
- (b) trade and professional associations;
- (c) economic and social partners;
- (d) non-governmental organisations;
- (e) organisations representing business;
- (f) information centres on the European Union as well as Commission representatives in the Member States;
- (g) educational institutions.

*Article 30***INFORMATION MEASURES FOR BENEFICIARIES**

The managing authority shall inform beneficiaries that acceptance of funding is also an acceptance of their inclusion in the list of beneficiaries published in accordance with point (d) of the second paragraph of Article 31.

*Article 31***RESPONSIBILITIES OF THE MANAGING AUTHORITY RELATING TO INFORMATION AND PUBLICITY MEASURES FOR THE PUBLIC**

For the purposes of Article 51(2)(c) of the basic Regulation, the managing authority shall ensure that the information and publicity measures for the public are implemented and that they aim at the widest possible media coverage using various forms and methods of communication at the appropriate territorial level.

The managing authority shall be responsible for organising at least the following information and publicity measures:

- (a) a major information activity publicising the launch of the operational programme;
- (b) at least one major information activity a year, presenting the achievements of the operational programme;
- (c) flying the flag of the European Union during one week starting 9 May, in front of the premises of the managing authority;
- (d) the publication, electronically or otherwise, of the list of beneficiaries, the names of the operations and the amount of public funding allocated to the operations.

Participants in operations supported by EFF and aimed at improving professional skills and training as well as beneficiaries receiving support for early departure from the fishing sector, including early retirement, as provided for under Article 27(1)(d) of the basic Regulation, shall not be named.

*Article 32***RESPONSIBILITIES OF BENEFICIARIES RELATING TO INFORMATION AND PUBLICITY MEASURES FOR THE PUBLIC**

1. For the purposes of Article 51 of the basic Regulation, the beneficiary shall be responsible for informing the public, by means of the measures laid down in paragraphs 2, 3 and 4 of this Article, about the assistance obtained from the EFF.

2. Where the total eligible cost of an operation co-financed by the EFF, exceeds EUR 500 000 and consists in the financing of infrastructure or of construction operations the beneficiary shall put up a billboard at the site of the operation during its implementation. The information referred to in Article 33 shall take up at least 25% of the billboard.

When the operation is completed the billboard shall be replaced by the permanent explanatory plaque referred to in paragraph 3.

3. Where the total eligible cost of the operation exceeds EUR 500 000 and consists in the purchase of a physical object or the financing of infrastructure or of construction operations, the beneficiary shall put up a permanent explanatory plaque that is visible and of significant size no later than six months from the date of completion of the operation.

The plaque shall state the type and name of the operation in addition to the information referred to in Article 33. The information referred to in that Article shall take up at least 25% of the plaque.

An explanatory plaque shall also be installed at the locations of the groups financed under priority axis 4 of the basic Regulation.

4. In appropriate cases, the beneficiary shall ensure that those taking part in an operation co-financed by the EFF have been informed of that funding.

The beneficiary shall provide a clear notice to the effect that the operation being implemented has been selected under an operational programme co-financed by the EFF.

Any document, including any attendance or other certificate, concerning such an operation shall include a statement to the effect that the operational programme was co-financed by the EFF.

Article 33

TECHNICAL CHARACTERISTICS OF INFORMATION AND PUBLICITY MEASURES FOR THE OPERATION

1. All information and publicity measures aimed at beneficiaries, potential beneficiaries and the public shall include the following:

- (a) the emblem of the European Union, in accordance with the graphic standards set out in Annex II and reference to the European Union;
- (b) a reference to the EFF: 'European Fisheries Fund';
- (c) a statement chosen by the managing authority, highlighting the added value of the intervention of the Community, and preferably: 'Investing in sustainable fisheries'.

2. For small promotional objects, paragraph 1(b) and (c) shall not apply.

CHAPTER VI Financial engineering instruments

Article 34

GENERAL PROVISIONS APPLICABLE TO ALL FINANCIAL ENGINEERING INSTRUMENTS

1. Pursuant to Article 55(8) of the basic Regulation, as part of an operational programme, the EFF may co-finance expenditure in respect of an operation comprising contributions to support financial engineering instruments for enterprises, primarily to small and medium-sized enterprises (SMEs), including micro enterprises, as defined in Commission Recommendation 2003/361/EC ⁽¹⁾ as of 1 January 2005, such as venture capital funds, guarantee funds and loan funds including through holding funds.

The financial engineering instruments shall be in the form of actions which make repayable investments or provide guarantees for repayable investments, or both. The conditions set out in Articles 35, 36 and 37 shall apply to them.

2. The statement of expenditure, as regards financial engineering instruments, shall include the total expenditure paid in establishing or contributing to such instruments. However, at the partial or final closure of the operational programme, the eligible expenditure shall be the total of any payments for investment in enterprises from each of the financial engineering instruments referred to in paragraph 1 or any guarantees provided, including amounts committed as guarantees by guarantee funds and eligible management costs. The corresponding statement of expenditure shall be corrected accordingly.

3. Interest generated by payments from the operational programme to financial engineering instruments shall be used to finance financial engineering instruments for small and medium-sized enterprises, including micro enterprises.

4. Resources returned to the operation from investments undertaken by financial engineering instruments or left over after all guarantees have been honoured shall be reused by the competent authorities of the Member States concerned for the benefit of small and medium-sized enterprises, including micro enterprises.

Article 35

CONDITIONS APPLICABLE TO ALL FINANCIAL ENGINEERING INSTRUMENTS

1. When the EFF finances operations comprising financial engineering instruments, including those organised through holding funds, a business plan shall be submitted by the co-financing partners or shareholders or by their duly authorised representative.

That business plan shall be assessed and its implementation monitored by or under the responsibility of the Member State or the managing authority. The assessment of the economic viability of the investment activities of the financial engineering instruments shall take into account all sources of income of the enterprises concerned.

2. The business plan provided for in paragraph 1 shall specify at least the following:

- (a) the targeted market of enterprises and the criteria, terms and conditions of financing them;
- (b) the operational budget of the financial engineering instrument;
- (c) the ownership of the financial engineering instrument;
- (d) the co-financing partners or shareholders;
- (e) the by-laws of the financial engineering instrument;
- (f) the provisions on professionalism, competence and independence of the management;
- (g) the justification for and intended use of the contribution from EFF;
- (h) the policy of the financial engineering instrument concerning exits from investments in enterprises;
- (i) the winding-up provisions of the financial engineering instrument, including the reutilisation of resources returned to the financial engineering instrument from investments or left over after all guarantees have been honoured, attributable to the contribution from the operational programme.

3. Financial engineering instruments, including holding funds, shall be set up as independent legal entities governed by agreements between the co-financing partners or shareholders or as a separate block of finance within an existing financial institution.

Where the financial engineering instrument is established within a financial institution, it shall be set up as a separate block of finance, subject to specific implementation rules within the financial institution, stipulating, in particular, that separate accounts are kept, which distinguish the new resources invested in the financial engineering instrument, including those contributed by the operational programme, from those initially available in the institution.

The Commission shall not become a co-financing partner or shareholder in financial engineering instruments.

4. Management costs may not exceed, on a yearly average, for the duration of the assistance any of the following thresholds, unless a higher percentage proves necessary after a competitive tender:

- (a) 2% of the capital contributed from the operational programme to holding funds, or of the capital contributed from the operational programme or holding fund to the guarantee funds;
- (b) 3% of the capital contributed from the operational programme or the holding fund to the financial engineering instrument in all other cases, with the exception of micro credit instruments directed at micro enterprises;
- (c) 4% of the capital contributed from the operational programme or the holding fund to instruments directed at micro enterprises.

5. The terms and conditions for contributions from the operational programme to financial engineering instruments shall be set out in a funding agreement, to be concluded between the duly mandated representative of the financial engineering instrument and the Member State or the managing authority.

6. The funding agreement referred to in paragraph 5 shall include at least:

- (a) the investment strategy and planning;
- (b) monitoring of implementation in accordance with applicable rules;
- (c) an exit policy for the contribution from the operational programme out of the financial engineering instrument;
- (d) the winding-up provisions of the financial engineering instrument, including the reutilisation of resources returned to the financial engineering instrument from investments or left over after all guarantees have been honoured, that are attributable to the contribution from the operational programme.

7. The managing authority shall take precautions to minimise any distortions of competition in the venture capital or lending markets. Returns from equity investments and loans, less a pro rata share of the management costs and performance incentives, may be allocated preferentially to investors operating under the market economy investor principle up to the level of remuneration laid down in the bylaws of the financial engineering instruments and they shall then be allocated proportionally among all co-financing partners or shareholders.

Article 36

SPECIFIC CONDITIONS APPLICABLE TO HOLDING FUNDS

1. When the EFF finances financial engineering instruments organised through holding funds, that is, funds set up to invest in several venture capital funds, guarantee funds and loan funds, the Member State or managing authority shall implement them through one or more of the following forms:

- (a) the award of a public contract in accordance with applicable public procurement law;
- (b) in other cases, where the agreement is not a public service contract within the meaning of public procurement law, the award of a grant, defined for this purpose as a direct financial contribution by way of a donation to:
 - (i) the European Investment Bank or to the European Investment Fund;
 - or
 - (ii) a financial institution without a call for proposals, if this is pursuant to a national law compatible with the Treaty.

2. When the EFF finances financial engineering instruments organised through holding funds, the Member State or the managing authority, shall conclude a funding agreement with the holding fund setting out the funding arrangements and objectives.

The funding agreement shall, where appropriate, take account of the conclusions of an evaluation of gaps between the supply of such instruments to, and demand for such instruments by, SMEs.

3. The funding agreement, referred to in paragraph 2, shall in particular make provision for:

- (a) the terms and conditions for contributions from the operational programme to the holding fund;
- (b) a call for expressions of interest addressed to financial intermediaries;
- (c) the appraisal, selection and accreditation of financial intermediaries;
- (d) the setting up and monitoring of the investment policy, which shall comprise at least an indication of the targeted enterprises and the financial engineering products to be supported;
- (e) reporting by the holding fund to the Member State or managing authority;
- (f) monitoring the implementation of investments in accordance with applicable rules;
- (g) audit requirements;
- (h) the exit policy of the holding fund out of the venture capital funds, guarantee funds or loan funds;
- (i) the winding-up provisions of the holding fund, including the reutilisation of resources returned to the financial engineering instrument from investments made or left over after all guarantees have been honoured which are attributable to the contribution from the operational programme.

4. The terms and conditions for contributions to venture capital funds, guarantee funds, and loan funds from holding funds supported by the operational programme shall be set out in a funding agreement, to be concluded between the venture capital funds, guarantee fund and loan fund, on one hand, and the holding fund, on the other. The funding agreement shall include at least the elements listed in Article 35(6).

Article 37

SPECIFIC CONDITIONS APPLICABLE TO VENTURE CAPITAL FUNDS, GUARANTEE FUNDS AND LOAN FUNDS

Financial engineering instruments, other than holding funds, shall invest in enterprises, primarily in SMEs. Such investments may only be made at the establishment, in the early stages, including seed capital, or on the expansion of those enterprises, and only in activities which the managers of the financial engineering instruments judge potentially economically viable.

CHAPTER VII

Management, monitoring and control

Section 1

General provisions

Article 38

INTERMEDIATE BODIES

1. Where one or more of the tasks of a managing authority or certifying authority are performed by an intermediate body, the relevant arrangements shall be formally recorded in writing.

2. The provisions of this Regulation concerning the managing authority and certifying authority shall apply to the intermediate body.

Article 39

MANAGING AUTHORITY

1. For the purposes of the selection and approval of operations, under Article 59(a) of the basic Regulation, the managing authority shall ensure that beneficiaries are informed of the specific conditions concerning the products or services to be delivered under the operation, the financing plan, the time limit for execution, and the financial and other information to be kept and communicated. It shall satisfy itself that the beneficiary has the capacity to fulfil those obligations before the approval decision is taken.

2. The verifications to be carried out by the managing authority under Article 59(b) of the basic Regulation shall cover the administrative, financial, technical and physical aspects of operations, as appropriate.

Verifications shall ensure that the expenditure declared is real, the products or services have been delivered in accordance with the approval decision, the applications for reimbursement by the beneficiary are correct and that expenditure complies with Community and national rules. They shall include procedures to avoid double-financing of expenditure with other Community or national schemes and with other programming periods.

The verifications shall include the following procedures:

- (a) administrative verifications in respect of each application for reimbursement by beneficiaries;
- (b) on-the-spot verifications of individual operations.

3. Where on-the-spot verifications under paragraph 2(b) are carried out on a sample basis for the operational programme, the managing authority shall keep records describing and justifying the sampling method and identifying the operations or transactions selected for verifications.

The managing authority shall determine the size of the sample in order to achieve reasonable assurance as to the legality and regularity of the underlying transactions having regard to the level of risk identified by the managing authority for the type of beneficiaries and operations concerned.

The managing authority shall review the sampling method each year.

4. The managing authority shall establish written standards and procedures for the verifications carried out under paragraph 2 and shall keep records for each verification, stating the work performed, the date and the results of the verification and the measures taken in respect of any irregularities detected.

5. Where the managing authority is also a beneficiary under the operational programme, arrangements for the verifications referred to in paragraphs 2, 3 and 4 of this Article shall ensure the adequate separation of functions in accordance with Article 57(1)(b) of the basic Regulation.

Article 40

DATA ON OPERATIONS TO BE COMMUNICATED ON REQUEST TO THE COMMISSION

1. The accounting records of operations and the data on implementation, referred to in Article 59(c) of the basic Regulation, shall include at least the information set out in Annex III to this Regulation. That information shall be disaggregated where relevant on the basis of age and gender of beneficiaries.

2. The managing, certifying and audit authorities and the bodies, referred to in Article 61(3) of the basic Regulation, shall

have access to the information referred to in paragraph 1 of this Article.

3. At the written request of the Commission, the Member State shall provide the Commission with the appropriate information referred to in paragraph 1 within fifteen working days of receipt of the request or any other agreed period, for the purpose of carrying out documentary and on-the-spot checks. The Commission may require the information referred to in paragraph 1 at the level of the operations, measures, priority axes or of the operational programme.

Article 41

AUDIT TRAIL

For the purposes of Article 59(f) of the basic Regulation, an audit trail shall be considered adequate where, it complies with the following criteria:

- (a) it permits the aggregate amounts certified to the Commission to be reconciled with the detailed accounting records and supporting documents held by the certifying authority, managing authority, intermediate bodies and beneficiaries as regards operations co-financed under the operational programme;
- (b) it permits verification of payment of the public contribution to the beneficiary;
- (c) it permits verification of the application of the selection criteria established by the monitoring committee for the operational programme;
- (d) it contains, in respect of each operation, as appropriate, the technical specifications and financing plan, documents concerning the grant approval, documents relating to public procurement procedures, progress reports and reports on verifications and audits carried out.

Article 42

AUDITS OF OPERATIONS

1. The audits referred to in Article 61(1)(b) of the basic Regulation shall be carried out each 12-month period from 1 July 2008 on a sample of operations selected by a method established or approved by the audit authority in accordance with Article 43 of this Regulation.

The audits shall be carried out on-the-spot on the basis of documentation and records held by the beneficiary.

2. The audits shall verify that the following conditions are fulfilled:

- (a) the operation meets the selection criteria for the operational programme, has been implemented in

accordance with the approval decision and fulfils any applicable conditions concerning its functionality and use or the objectives to be attained;

- (b) the expenditure declared corresponds with the accounting records and supporting documents held by the beneficiary;
- (c) the expenditure declared by the beneficiary is in compliance with Community and national rules;
- (d) the public contribution has been paid to the beneficiary in accordance with Article 80 of the basic Regulation.

3. Where any problems detected appear to be systemic in nature and therefore entail a risk for other operations under the operational programme, the audit authority shall ensure that further examinations are carried out, including additional audits where necessary, to establish the scale of any such problems. The necessary preventive and corrective action shall be taken by the responsible authorities.

4. Only expenditure falling within the scope of the audit in accordance with paragraph 1 shall be counted towards the amount of expenditure audited, for the purposes of reporting in the tables in point 9 of Part A of Annex VI and point 9 of Part A of Annex VII.

Article 43

SAMPLING

1. The sample of operations to be audited each 12-month period shall in the first instance be based on a random statistical sampling method as set out in paragraphs 2, 3 and 4. Additional operations may be selected as a complementary sample as set out in paragraphs 5 and 6.

2. The method used to select the sample and to draw conclusions from the results shall take account of internationally accepted audit standards and be documented. Having regard to the amount of expenditure, the number and type of operations and other relevant factors, the audit authority shall determine the appropriate statistical sampling method to apply. The technical parameters of the sample shall be determined in accordance with Annex IV.

3. The sample to be audited in each 12-month period shall be selected from those operations for which expenditure has been declared to the Commission for the operational programme during the year preceding the year in which the annual control report, provided for in Article 61(1)(e)(i) of the basic Regulation, is communicated to the Commission. For the first twelve month period, the audit authority may decide to group the operations for which expenditure has been declared to the Commission in 2007 and 2008 as a basis for the selection of the operations to be audited.

4. The audit authority shall draw conclusions on the basis of the results of the audits relating to expenditure declared to the Commission during the period referred to in paragraph 3 and communicate them to the Commission in the annual control report. In operational programmes for which the projected error rate is above the materiality level, the audit authority shall analyse its significance and take the necessary actions, including making appropriate recommendations which shall be communicated in the annual control report.

5. The audit authority shall regularly review the coverage provided by the random sample, having regard in particular to the need to have sufficient audit assurance for the declarations to be provided at partial and final closure of the operational programme. It shall decide on the basis of its professional judgment whether it is necessary to audit a complementary sample of additional operations in order to take account of specific risk factors identified and to guarantee for the programme sufficient coverage of different types of operation, beneficiaries, intermediate bodies and priority axes.

6. The audit authority shall draw conclusions on the basis of the results of the audits of the complementary sample and communicate them to the Commission in the annual control report. Where the number of detected irregularities is high or where systemic irregularities have been detected, the audit authority shall analyse the significance thereof and take the necessary actions including making recommendations which shall be communicated in the annual control report. The results of the audits on the complementary sample shall be analysed separately from those of the random sample. In particular, irregularities detected in the complementary sample shall not be taken into account when the error rate of the random sample is calculated.

Article 44

DOCUMENTS PRESENTED BY THE AUDIT AUTHORITY

1. The audit strategy referred to in Article 61(1)(c) of the basic Regulation shall be established in accordance with the model set out in Annex V to this Regulation. It shall be updated and reviewed annually and, if necessary, during the course of the year.

2. The annual control report and the opinion referred to in Article 61(1)(e)(i) of the basic Regulation shall be based on the systems audits and audits of operations carried out under Article 61(1)(a) and (b) of that Regulation in accordance with the audit strategy for the operational programme and shall be drawn up in accordance with the models set out in Annex VI to this Regulation.

3. The closure declaration referred to in Article 61(1)(f) of the basic Regulation shall be based on all the audit work carried out by or under the responsibility of the audit authority in accordance with the audit strategy. The closure declaration and final control report shall be drawn up in accordance with the model set out in Annex VII to this Regulation.

4. If there is limitation in the scope of examination or if the level of irregular expenditure detected does not allow the provision of a unqualified opinion for the annual opinion referred to in Article 61(1)(e) of the basic Regulation or in the closure declaration referred to in Article 61(1)(f) of that Regulation, the audit authority shall give the reasons and estimate the scale of the problem and its financial impact.

5. In the event of partial closure of an operational programme, the declaration relating to the legality and regularity of the transactions covered by the statement of expenditure referred to in Article 85 of the basic Regulation shall be drawn up by the audit authority in accordance with the model set out in Annex VIII to this Regulation and submitted with the opinion referred to in Article 61(1)(e)(iii) of the basic Regulation

Article 45

AVAILABILITY OF DOCUMENTS

1. For the purposes of Article 87 of the basic Regulation, the managing authority shall ensure that a record is available of the identity and location of bodies holding the supporting documents relating to expenditure and audits, which includes all documents required for an adequate audit trail.

2. The managing authority shall ensure that the documents referred to in paragraph 1 of this Article are made available for inspection by, and extracts or copies thereof are supplied to, persons and bodies entitled thereto, including at least authorised staff of the managing authority, certifying authority, intermediate bodies, audit authority and the bodies referred to in Article 61(3) of the basic Regulation and authorised officials of the Community and their authorised representatives.

3. The managing authority shall keep the information necessary for the purposes of evaluation and reporting, including the information referred to in Article 40, in relation to operations referred to in Article 87(2) of the basic Regulation for the whole of the period referred to in paragraph (1)(a) of that Article.

4. The following at least shall be considered as commonly accepted data carriers, as referred to in Article 87 of the basic Regulation:

- (a) photocopies of original documents;
- (b) microfiches of original documents;
- (c) electronic versions of original documents;
- (d) documents existing in electronic version only.

5. The procedure for certification of conformity of documents held on commonly accepted data carriers with the original document shall be laid down by the national authorities and shall ensure that the versions held comply with national legal requirements and can be relied on for audit purposes.

6. Where documents exist in electronic version only, the computer systems used must meet accepted security standards that ensure that the documents held comply with national legal requirements and may be relied on for audit purposes.

Article 46

DOCUMENTS SUBMITTED BY THE CERTIFYING AUTHORITY

1. Certified statements of expenditure and applications for payment, as referred to in Article 60(a) of the basic Regulation, shall be drawn up in the format set out in Annex IX to this Regulation and transmitted to the Commission.

2. By 31 March each year, as from 2008, the certifying authority shall submit to the Commission a statement in accordance with the model set out in Annex X identifying for each priority axis of the operational programme:

- (a) the amounts withdrawn from statements of expenditure submitted during the preceding year following cancellation of all or part of the public contribution for an operation;
- (b) the amounts recovered which have been deducted from those statements of expenditure;
- (c) a statement of amounts to be recovered as at 31 December of the preceding year, classified by the year in which recovery orders were issued.

3. In order to proceed to the partial closure of the operational programme, the certifying authority shall submit to the Commission a statement of expenditure referred to in Article 85 of the basic Regulation in the format set out in Annex XI to this Regulation.

Article 47

DESCRIPTION OF MANAGEMENT AND CONTROL SYSTEMS

The description of the management and control systems for the operational programme referred to in Article 71(1) of the basic Regulation shall contain information on the points referred to in Article 57 of that Regulation, and the information set out in Articles 48 and 49 of the present Regulation.

That information shall be submitted in accordance with the model set out in Part A of Annex XII to this Regulation.

*Article 48***INFORMATION CONCERNING THE MANAGING AUTHORITY, THE CERTIFYING AUTHORITY AND INTERMEDIATE BODIES**

As regards the managing authority, the certifying authority and each intermediate body, the Member State shall provide the Commission with the following information:

- (a) a description of the tasks entrusted to them;
- (b) an organisation chart of each of them, a description of the allocation of tasks between or within their departments, and the indicative number of posts allocated;
- (c) the procedures for selecting and approving operations;
- (d) the procedures by which beneficiaries' applications for reimbursement are received, verified and validated, and in particular the rules and procedures laid down for verification purposes in Article 39, and the procedures by which payments to beneficiaries are authorised, executed and entered in the accounts;
- (e) the procedures by which statements of expenditure are drawn up, certified and submitted to the Commission;
- (f) a reference to the written procedures established for the procedures referred to in points (c), (d) and (e);
- (g) the eligibility rules laid down by the Member State and applicable to the operational programme;
- (h) the system for keeping the detailed accounting records of operations and data on implementation referred to in Article 40(1) under the operational programme.

*Article 49***INFORMATION CONCERNING THE AUDIT AUTHORITY AND THE BODIES REFERRED TO IN ARTICLE 61(3) OF THE BASIC REGULATION**

As regards the audit authority and the bodies, referred to in Article 61(3) of the basic Regulation, the Member State shall provide the Commission with the following information:

- (a) a description of their respective tasks and their inter-relationships;
- (b) the organisation chart of the audit authority and of each of the bodies involved in carrying out audits concerning the operational programme, describing how their independence is ensured, the indicative number of posts allocated and the qualifications or experience required;

(c) the procedures for monitoring the implementation of recommendations and corrective measures resulting from audit reports;

(d) the procedures, where appropriate, for the supervision by the audit authority of the work of the bodies involved in carrying out audits concerning the operational programme;

(e) the procedures for the preparation of the annual control report and the closure declaration.

*Article 50***ASSESSMENT OF THE MANAGEMENT AND CONTROL SYSTEMS**

1. The report, referred to in Article 71(2) of the basic Regulation, shall be based on an examination of the systems description, of relevant documents concerning the systems and of the system for keeping accounting records and data on the implementation of operations and on interviews with the staff in the main bodies considered important by the audit authority, or other body responsible for the report, in order to complete, clarify or verify the information.

2. The opinion on the compliance of the systems, referred to in Article 71(2) of the basic Regulation, shall be drawn up in accordance with the model set out in Part B of Annex XII to this Regulation.

3. Where the management and control system concerned is essentially the same as that in place for assistance approved under Council Regulation (EC) No 1083/2006 ⁽¹⁾, account may be taken of the results of audits carried out by national and Community auditors in relation to that system for the purposes of establishing the report and opinion under Article 71(2) of the basic Regulation.

Section 2**Derogations with regard to the control of operational programmes referred to in Article 2***Article 51***GENERAL DEROGATIONS**

1. For the operational programmes referred to in Article 2 of this Regulation, the audit authority shall not be required to present to the Commission an audit strategy as provided for in Article 61(1)(c) of the basic Regulation.

2. For the operational programmes referred to in Article 2 of this Regulation, where the opinion on the compliance of the system referred to in Article 71(2) of the basic Regulation is without reservations, or where reservations have been withdrawn following corrective measures, the Commission may conclude:

⁽¹⁾ OJ L 210, 31.7.2006, p. 25.

(a) that it may rely principally on the opinion referred to in Article 61(1)(e)(ii) of the basic Regulation with regard to the effective functioning of the systems;

(b) that it will carry out its own on-the-spot audits only if there is evidence to suggest shortcomings in the system affecting expenditure certified to the Commission in a year for which an opinion under Article 61(1)(e)(ii) of the basic Regulation has been provided which contains no reservation in respect of such shortcomings.

3. Where the Commission reaches the conclusion referred to in paragraph 2 of this Article, it shall inform the Member State concerned accordingly.

Where there is evidence to suggest shortcomings, it may require the Member State concerned to carry out audits in accordance with Article 72(3) of the basic Regulation or it may carry out its own audits under Article 72(2) of that Regulation

Article 52

ESTABLISHMENT OF BODIES AND PROCEDURES UNDER NATIONAL LAW

1. For the operational programmes referred to in Article 2, a Member State may in addition to the general derogations provided for in Article 51, exercise the option of establishing, in accordance with national rules, the bodies and procedures for carrying out:

(a) the functions of the managing authority in relation to the verification of the co-financed products and services and expenditure declared under Article 59(b) of the basic Regulation;

(b) the functions of the certifying authority under Article 60 of the basic Regulation;

(c) the functions of the audit authority under Article 61 of the basic Regulation.

2. Where a Member State exercises the option referred to in paragraph 1 of this Article, it shall not be required to designate a certifying authority and an audit authority, as provided for in Article 58(1)(b) and (c) of the basic Regulation.

3. Where a Member State exercises the option referred to in paragraph 1 of this Article, the provisions of Article 71 of the basic Regulation shall apply *mutatis mutandis*.

Article 53

SPECIFIC PROVISIONS FOR BODIES AND PROCEDURES ESTABLISHED UNDER NATIONAL LAW

1. This Article shall apply to operational programmes in respect of which a Member State has exercised the option provided for in Article 52(1).

2. The verifications referred to in Article 39(2) shall be carried out by the national bodies referred to in Article 52(1).

3. The audits of operations referred to in Article 61(1)(b) of the basic Regulation shall be carried out in accordance with national procedures. Articles 42 and 43 of this Regulation shall not apply.

4. Article 44 (2) to (5) shall apply *mutatis mutandis* to the preparation of the documents issued by the national bodies referred to in Article 52(1).

The annual control report and the annual opinion shall be drawn up following, as appropriate, the models set out in Annex VI.

5. The obligations laid down in Article 46(2), shall be carried out by the national bodies referred to in Article 52(1).

The statement of expenditure shall be drawn up following the models set out in Annexes IX and XI.

6. The information to be included in the description of the management and control systems referred to in Articles 47, 48 and 49 shall, where applicable, include the information concerning the national bodies referred to in Article 52(1).

CHAPTER VIII Irregularities

Article 54

DEFINITIONS

For the purposes of this Chapter the following definitions shall apply:

(a) 'economic operator': any natural or legal person or other entity taking part in the implementation of assistance from the EFF, with the exception of a Member States exercising its prerogatives as a public authority;

(b) 'primary administrative or judicial finding': a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure;

(c) 'suspected fraud': an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as defined in Article 1(1)(a) of the Convention drawn up on the basis of Article K.3 of the Treaty of the

European Union, on the protection of the European Communities' financial interests ⁽¹⁾;

d) 'bankruptcy': insolvency proceedings as defined in Article 2(a) of Council Regulation (EC) No 1346/2000 ⁽²⁾.

Article 55

INITIAL REPORTING – DEROGATIONS

1. Without prejudice to the obligations under Article 70 of basic Regulation, within two months following the end of each quarter, Member States shall report to the Commission any irregularities which have been the subject of a primary administrative or judicial finding.

In that report, Member States shall in all cases give details concerning the following:

- (a) the EFF, the objective, the operational programme, the priority axis and the operation concerned and the Common Identification Code (CCI) number;
- (b) the provision which has been infringed;
- (c) the date and source of the first information which led to a suspicion that an irregularity has been committed;
- (d) the practices employed in committing the irregularity;
- (e) where appropriate, whether the practice gives rise to a suspicion of fraud;
- (f) the manner in which the irregularity was discovered;
- (g) where appropriate, the Member States and third countries involved;
- (h) the period during which, or the moment at which, the irregularity was committed;
- (i) the national authorities or bodies which drew up the official report on the irregularity and the authorities responsible for the administrative or judicial follow-up;
- (j) the date on which the primary administrative or judicial finding on the irregularity was established;
- (k) the identity of the natural and legal persons involved or of any other participating entities, except where such information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity concerned;

(l) the total budget and the public contribution approved for the operation and the distribution of its co-financing between Community and the national contribution;

(m) the amount of the public contribution affected by the irregularity and the corresponding Community contribution at risk;

(n) where no payment of the public contribution has been made to the persons or other entities identified under point (k), the amounts which would have been unduly paid had the irregularity not been identified;

(o) the suspension of payments, where applicable, and the possibilities of recovery;

(p) the nature of the irregular expenditure.

2. By way of derogation from the paragraph 1, the following cases need not be reported:

- (a) cases where the irregularity consists solely in the failure to execute an operation, in whole or in part, included in the co-financed operational programme owing to the bankruptcy of the beneficiary;
- (b) cases brought to the attention of the managing or certifying authority by the beneficiary voluntarily and before detection by either of them, whether before or after the payment of the public contribution;
- (c) cases which are detected and corrected by the managing or certifying authority before any payment to the beneficiary of the public contribution and before the inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

However, irregularities preceding a bankruptcy and cases of suspected fraud must be reported.

3. Where some of the information referred to in paragraph 1, and in particular information concerning the practices employed in committing the irregularity and the manner in which it was discovered, is not available, Member States shall as far as possible supply the missing information when submitting subsequent quarterly reports of irregularities to the Commission.

4. If national provisions provide for the confidentiality of investigations, the communication of the information shall be subject to the authorisation of the competent court or tribunal.

5. Where a Member State has no irregularities to report under paragraph 1, it shall inform the Commission of that fact within the time limit set out in that paragraph.

(1) OJ C 316, 27.11.1995, p. 49.

(2) OJ L 160, 30.6.2000, p. 1.

*Article 56***URGENT CASES**

Each Member State shall immediately report to the Commission and, where necessary, to the other Member States concerned, any irregularities discovered or supposed to have occurred, where it is feared that:

- (a) they may very quickly have repercussions outside its territory;
- or
- b) they show that a new malpractice has been employed.

*Article 57***REPORTING OF FOLLOW-UP AND NON-RECOVERY**

1. Within two months following the end of each quarter, Member States shall inform the Commission, with a reference back to any previous reports made under Article 55, of the procedures instituted with respect to all irregularities previously notified and of any important changes resulting from them.

That information shall include at least the following:

- (a) the amounts which have been, or are expected to be, recovered;
- (b) any interim measures taken by Member States to safeguard the recovery of any sums unduly paid;
- (c) any judicial and administrative procedures instituted with a view to recovering any sums unduly paid and to imposing sanctions;
- (d) the reasons for any abandonment of recovery procedures;
- (e) any abandonment of criminal prosecutions.

Member States shall report to the Commission administrative or judicial decisions, or the main points thereof, concerning the termination of such procedures and shall state in particular whether or not the findings are such that fraud is suspected. In the case referred to in point (d), Member States shall, as far as possible, notify the Commission before a decision is taken.

2. Where a Member State considers that an amount cannot be recovered or is not expected to be recovered, it shall inform the Commission, in a special report, of the amount not recovered and the facts relevant to the decision on apportionment of the loss under Article 70(2) of basic Regulation.

That information shall be sufficiently detailed so as to allow the Commission to take such decision as soon as possible, after consulting the authorities of the Member States concerned.

It shall include at least:

- (a) a copy of the award decision;
 - (b) the date of the last payment made to the beneficiary;
 - (c) a copy of the recovery order;
 - (d) in the case of bankruptcies subject to the reporting under Article 55(2), a copy of the document attesting the beneficiary's insolvency;
 - (e) an outline description of the measures taken by the Member State, with an indication of their dates, to recover the relevant amount.
3. In the case referred to in paragraph 2, the Commission may expressly request the Member State to continue the recovery procedure.

*Article 58***ELECTRONIC TRANSMISSION**

The information referred to in Articles 55 and 56 and Article 57(1) shall be submitted, whenever it is possible to do so, by electronic means, using the module provided by the Commission for this purpose via a secure connection.

*Article 59***REIMBURSEMENT OF JUDICIAL COSTS**

Where the competent authorities of a Member State decide, at the express request of the Commission, to initiate or continue judicial proceedings with a view to recovering amounts unduly paid, the Commission may undertake to reimburse the Member State all or part of the judicial costs and costs arising directly from the proceedings, on presentation of documentary evidence, even where the proceedings are unsuccessful.

*Article 60***CONTACTS WITH MEMBER STATES**

1. The Commission shall maintain appropriate contacts with the Member States concerned for the purpose of supplementing the information supplied on the irregularities referred to in Article 55, on the procedures referred to in Article 57, and, in particular, on the possibility of recovery.

2. Independently of the contacts referred to in paragraph 1 the Commission shall inform Member States where the nature of

the irregularity is such as to suggest that identical or similar practices could occur in other Member States.

3. The Commission shall organise information meetings at Community level for representatives of the Member States in order to examine with them the information obtained pursuant to Articles 55, 56 and 57, and paragraph 1 of this Article. The examination shall focus on the lessons to be learned from the information in connection with irregularities, preventive measures and legal proceedings.

4. At the request of a Member State or the Commission, the Member State and the Commission shall consult with one another for the purpose of closing any loopholes prejudicial to Community interests which become apparent in the course of the enforcement of provisions in force.

Article 61

USE OF INFORMATION

The Commission may use any information of a general or operational nature communicated by Member States under this Regulation to perform risk analyses, and may, on the basis of the information obtained, produce reports and develop early-warning systems serving to identify risks more effectively.

Article 62

THE PROVISION OF INFORMATION TO COMMITTEES

The Commission shall regularly inform the Member States, in the framework of the advisory committee for the coordination of fraud prevention set up by Commission Decision 94/140/EC ⁽¹⁾, of the order of magnitude of the funds involved in the irregularities which have been discovered and of the various categories of irregularity, broken down by type and number. The committee referred to in Article 101 of the basic Regulation shall also be informed.

Article 63

IRREGULARITIES UNDER THE REPORTING THRESHOLD

1. Where the irregularities relate to amounts of less than EUR 10 000 chargeable to the general budget of the European Communities, Member States shall not submit to the Commission the information provided for in Articles 55 and 57 unless the latter expressly requests it.

However, in accordance with Article 60(f) of the basic Regulation, Member States shall keep accounts of amounts below that threshold that are recoverable and of amounts recovered or withdrawn following cancellation of the contribution to an operation and shall repay the recovered amounts to the general budget of the European Communities.

Without prejudice to the obligations arising directly out of Article 70(1)(b) of the basic Regulation, the Member State and the Community shall share any losses arising from amounts below the threshold that cannot be recovered in accordance with the co-financing rate applicable to the operation concerned. The procedure set out in Article 57(2) of this Regulation shall not apply unless the Commission decides otherwise.

The third subparagraph of this paragraph shall also apply to cases of bankruptcy exempted from the reporting obligation provided for in Article 55(1).

2. Member States which have not adopted the euro as their currency by the date the irregularity is established shall convert expenditure paid in national currency into euro, in accordance with Article 95 of the basic Regulation. Where the expenditure has not been registered in the accounts of the certifying authority, the most recent accounting exchange rate published electronically by the Commission shall be used.

CHAPTER IX

Electronic exchange of data

Article 64

COMPUTER SYSTEM FOR DATA EXCHANGE

For the purpose of Articles 65 and 75 of the basic Regulation, a computer system for exchange of data shall be established as a tool for the exchange of all data relating to the operational programme.

The exchange of data between each Member State and the Commission shall be carried out using that computer system, established by the Commission, which permits the secure exchange of data between the Commission and each Member State.

The Member States shall be involved in the further development of the computer system for data exchange.

Article 65

THE CONTENT OF COMPUTER SYSTEM FOR DATA EXCHANGE

1. The computer system for data exchange shall contain information of common interest to the Commission and the Member States, and at least the following data necessary for financial transactions:

- (a) the financing plan for operational programmes in accordance with the model set out in Part B of Annex I;
- (b) statements of expenditure and applications for payment in accordance with the model set out in Annex IX;

- (c) the annual statement on withdrawn and recovered amounts and pending recoveries in accordance with the model set out in Annex X;
- (d) annual forecasts of likely applications for payment in accordance with the model set out in Annex XIII;
- (e) the financial section of the annual and final reports on implementation in accordance with the model set out in point 3.3 of Annex XIV.

2. In addition to paragraph 1, the computer system for data exchange shall contain at least the following documents and data of common interest enabling monitoring to be carried out:

- (a) the national strategic plan referred to in Article 15 of the basic Regulation;
- (b) the operational programme, including any revisions of it in accordance with the model set out in Part A of Annex I;
- (c) the Commission decision concerning the contribution of the EFF;
- (d) the annual and final reports on implementation in accordance with the model set out in Annex XIV;
- (e) the audit strategy in accordance with the model set out in Annex V;
- (f) the description of management and control system in accordance with the model set out in Part A of Annex XII;
- (g) the reports and opinions of audits in accordance with the models set out in Annexes VI, VII, VIII and Part B of Annex XII and correspondence between the Commission and each Member State;
- (h) the statements of expenditure concerning partial closure in accordance with the model set out in Annex XI;
- (i) the annual statement on withdrawn and recovered amounts and pending recoveries in accordance with the model set out in Annex X.

3. The data referred to in paragraphs 1 and 2 shall, where applicable, be transmitted in the format given in the Annexes.

Article 66

FUNCTIONING OF THE COMPUTER SYSTEM FOR DATA EXCHANGE

1. The Commission and the authorities designated by the Member State pursuant to the basic Regulation as well as the bodies to which that task has been delegated shall record into the computer system for data exchange the documents for which they are responsible and any update thereto, in the required format.

2. Member States shall centralise and submit to the Commission requests for access rights to the computer system for data exchange.

3. Exchanges of data and transactions shall bear an electronic signature as defined in Article 2(1) of Directive 1999/93/EC. The Member States and the Commission shall recognise the legal effectiveness and admissibility of the electronic signature used in the computer system for data exchange as evidence in legal proceedings.

4. The cost of developing the computer system shall be financed by the general budget of the European Communities under Article 46(1) of the basic Regulation. Any costs of an interface between the common computer system for data exchange and national, regional and local computer systems and any costs of adapting national regional and local systems to requirements under the basic Regulation shall be eligible under Article 46(2) of that Regulation.

Article 67

TRANSMISSION OF DATA THROUGH THE COMPUTER SYSTEM FOR DATA EXCHANGE

1. The computer system for data exchange shall be accessible to the Member States and the Commission either directly or via an interface for automatic synchronisation and recording of data with national, regional and local computer management systems.

2. The date taken into account for the forwarding of documents to the Commission shall be the date on which the Member State records the documents into the computer system for data exchange.

3. In cases of *force majeure*, and in particular of malfunctioning of the computer system for data exchange or a lack of a lasting connection, the Member State concerned may forward to the Commission the documents required by the basic Regulation in hard copy, in accordance with the model forms set out in Annex I and Annexes V to XIV to this Regulation. As soon as the cause of *force majeure* ceases, the Member State shall record the corresponding documents into the computer system for data exchange without delay. By way of derogation from paragraph 2, the date to be taken into account for submission shall be deemed to be the date of submission of the documents in hard copy.

CHAPTER X Personal data

Article 68

PROTECTION OF PERSONAL DATA

1. Member States and the Commission shall take all necessary measures to prevent any unauthorised disclosure of, or access to, the information referred to in Article 40(1), information collected by the Commission in the course of its audits, and the information referred to in Chapter VIII.

2. The information referred to in Article 40(1), of this Regulation together with information collected by the Commission in the course of its audits, shall be used by the Commission for the sole purpose of fulfilling its responsibilities provided for in Article 72 of the basic Regulation.

The European Court of Auditors and the European Anti-Fraud Office shall have access to that information.

3. The information referred to in Chapter VIII shall not be sent to persons, other than those in the Member States or within the Community institutions whose duties require that they have access to it, unless the Member State supplying such information has expressly so agreed.

4. Any personal data included in the information referred to in point (d) of the second paragraph of Article 31 shall only be processed for the purposes specified in that Article.

CHAPTER XI Final provisions

Article 69

REPEAL

Regulations (EC) No 2722/2000, (EC) No 908/2000 and (EC) No 366/2001 are repealed. References to the repealed Regulations shall be construed as references to this Regulation.

The provisions of the Regulations repealed shall continue to apply to assistance approved under Regulation (EC) No 2792/1999.

Article 70

ENTRY INTO FORCE

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 March 2007.

For the Commission

Joe BORG

Member of the Commission

ANNEX I

Operational programme

PART A

Content of an operational programme

Information referred to in points 3 and 4 shall be provided in a summary form where it is included in the national strategic plan.

1. TITLE OF THE OPERATIONAL PROGRAMME, MEMBER STATE

2. GEOGRAPHICAL ELIGIBILITY

Identify:

- (1) 'convergence objective' regions (if relevant);
- (2) 'Non-convergence objective' regions (if relevant).

3. ANALYSIS

- (a) General description of the fishing sector in the Member State including:
 - (1) an analysis of national and/or local circumstances;
 - (2) an analysis of convergence regions and non-convergence regions;
 - (3) main lessons learned from the previous programming period or from similar experience in other Regions or Member State as well as the findings of the *ex ante* evaluation when available;
 - (4) context indicators and where relevant, national or regional statistics collected by Eurostat as well as in other sources of statistical data. Where relevant, the indicators listed in the National Strategic Plan for the description of the fisheries sector shall be used.
- (b) Driving forces and development tendencies, including the sectoral and regional dimension of the socio-economic development of the fisheries sector. The description of the strengths and weaknesses, opportunities and threats in the form of a SWOT (strengths, weaknesses, opportunities and threats) analysis aiming to identify the strategic choices made by the Member State for the operational programme and the priority axes.
- (c) Description of:
 - (1) the environmental situation including, where relevant, the results of the Strategic Environmental Assessment;
 - (2) the situation in terms of equality between men and women with regard to labour market opportunities, including constraints on specific groups, where appropriate;
- (d) Main outcomes of the analysis.

4. STRATEGY AT OPERATIONAL PROGRAMME LEVEL

Strategy chosen to meet strengths and weaknesses including:

- (1) overall objective(s) of the operational programme using impact indicators ⁽¹⁾;
- (2) specific objectives which the operational programme's priorities aim to achieve, using result indicators ⁽²⁾;
- (3) calendar and intermediary objectives.

(1) The impact indicators refer to the consequences of the operational programme beyond the immediate effects.

(2) The result indicators relate to the direct and immediate effects on beneficiaries brought about by the operational programme.

5. SUMMARY OF THE EX ANTE EVALUATION

Include a summary of the ex ante evaluation that will identify and appraise the elements referred to in Article 48 of Regulation (EC) No 1198/2006.

The ex ante evaluation shall address also the requirements of the environmental assessment provided for by Directive 2001/42/EC of the European Parliament and of the Council ⁽¹⁾ (the 'Strategic Environmental Assessment Directive').

The complete ex ante evaluation shall be presented as an annex to the operational programme.

6. PROGRAMME'S PRIORITY AXES

- (a) Coherence and justification of the priority axes chosen, having regard to:
- (1) the relevant part of the national strategic plan;
 - (2) guiding principles of the operational programme (Article 19 of Regulation (EC) No 1198/2006);
 - (3) outcomes of the ex ante evaluation referred to in Article 48 of Regulation (EC) No 1198/2006.
- (b) Description of each priority axis including:
- (1) main objectives of the priority axis;
 - (2) baseline and quantified targets using the indicators referred to in Point 4.2;
 - (3) justification of the average rate of co-financing (if relevant), target groups/sectors/areas and/or beneficiaries for the overall operational programme and for each priority axis;
 - (4) a description of the main measures proposed for each priority axis resulting of the strategy proposed;
 - (5) information on demarcation with similar activities financed by the European Agricultural Fund for Rural Development, the Structural Funds and by the Cohesion Fund, as well as measures taken to ensure complementarity with these funds and other existing financial instruments, where appropriate.
- (c) Specific information required for the priority axes and measures (if relevant).

– Priority axis 1: measures for the adaptation of the Community fishing fleet

- *Public aid for permanent cessation of fishing activities*
Description of priority given to the financing of recovery plans.
Description of the methods for the calculation of premiums for the permanent cessation of fishing activities.
- *Public aid for temporary cessation of fishing activities*
Description of the methods for the calculation of premiums for temporary cessation of fishing activities.
- *Investment on board fishing vessels and selectivity*
Description of the conditions applied where Member States choose the option to allow that the reduction of engine power is achieved by a group of vessels and a description of the mechanism put in place for the supervision of compliance with these conditions.
Description of the objective criteria used for the establishment of the maximum amount for the total eligible expenditure to be supported per fishing vessel over the entire programming period for investment on board vessels and selectivity under Article 25 of Regulation (EC) No 1198/2006 and in accordance with Article 6(2) of this Regulation.
- *Small scale coastal fishing*
Description of the methods for the calculation of socio economic compensations provided for under Article 26(3) of Regulation (EC) No 1198/2006 in favour of small scale coastal fishing.
Description of the methods for the calculation of premiums for fishers and owners of fishing vessels provided for under Article 26(4) of Regulation (EC) No 1198/2006 in favour of small scale coastal fishing.
- *Socio-economic compensation for the management of the Community fishing fleet*
Description of the methods for the calculation of socio-economic compensations provided for under Article 27 of Regulation (EC) No 1198/2006.

– **Priority axis 2: aquaculture, inland fishing, processing and marketing of fishery and aquaculture products:**

– *Measures for productive investments in aquaculture*

Description of how priority to micro and small enterprises is ensured.

– *Inland fishing*

Description of the mechanisms put in place to ensure that the investments supported under Article 33 of Regulation (EC) No 1198/2006 shall not jeopardise the equilibrium between the fleet size and the corresponding fish resources available.

Description of the measures to be taken in order to ensure that the vessels receiving assistance under Article 33 of Regulation (EC) No 1198/2006 shall continue to operate exclusively in inland waters.

Description of the objective criteria used for the establishment of the maximum amount for the total eligible expenditure to be supported per vessel operating in inland vessel over the entire programming period for investment on board vessels and selectivity under Article 33 of Regulation (EC) No 1198/2006 and in accordance with Article 6(2) of this Regulation.

Description of the methods for the calculation of premiums for the reassignment of vessels operating in inland fishing to activities outside fishing and the measures to be taken in order to ensure that the vessels receiving assistance from EFF shall not return to operate in inland fishing.

Description of the methods for the calculation of premiums for temporary cessation of fishing activities under Article 33(4) of Regulation (EC) No 1198/2006.

– *Investments in processing and marketing*

Description of how priority to micro and small enterprises is ensured.

– **Priority axis 4: sustainable development of fisheries areas**

Procedures and criteria for selecting the fisheries areas. Justification for the selection of fisheries areas whose size falls outside the limits set out in Article 43(3) of Regulation (EC) No 1198/2006.

Procedures, criteria and timetable for selecting the groups, including indicative number of groups and planned percentage of fisheries areas to be covered by the local development strategies.

Description of the management arrangements and financial circuits as far as the beneficiary, including description of the procedure for the selection of the operations and the role and tasks of the groups with regard the management, monitoring and control systems.

Justification for the running costs whose cost exceeds the ceiling fixed under Article 44(5) of Regulation (EC) No 1198/2006.

Identification of the measures eligible for support by more than one Community support instrument and justification of the option chosen.

– **Priority axis 5: technical assistance**

Justification of actions relating to the preparation, monitoring, evaluation, publicity, control and audit as well as networking whose cost exceed the ceiling fixed under Article 46(2) of Regulation (EC) No 1198/2006.

7. FINANCIAL PROVISIONS

To be drawn up in accordance with this Annex, Part B: Financing plans for the operational programme.

8. IMPLEMENTING PROVISIONS

a) Designation by the Member State of the entities provided for in Article 58 of Regulation (EC) No 1198/2006 or where the Member State exercises the option provided for in Article 52 of this Regulation the designation of the bodies and procedures in accordance with the rules laid down in Article 53 of this Regulation.

(b) The body responsible for receiving payments made by the Commission and the body or bodies responsible for making payments to the beneficiaries.

(c) Description of procedures for mobilisation and circulation of financial flows in order to ensure their transparency.

(d) Description of the monitoring and evaluation system as well as the composition of the Monitoring Committee.

- (e) The arrangements (to be) agreed between the Commission and the Member State for the computerised exchange of data needed to fulfil the management, monitoring and evaluation requirements.
- (f) The designation of the partners referred to in Article 8 of Regulation (EC) No 1198/2006 and the results of their cooperation. List of the consulted partners and supply of a summary of the results of the consultations. For the purposes of Article 8(2) of Regulation (EC) No 1198/2006, Member States shall, taking into account the need to promote equality between men and women and sustainable development through integration of environmental protection and enhancement, consider the involvement of relevant stakeholders, including non governmental organisations.
- (g) The elements aiming at ensuring the information and publicity of the operational programme in accordance with the rules laid down in Article 28 of this Regulation.

PART B

Financing plan for the operational programme

Table I: Financing plan of the operational programme giving the annual commitment of the EFF in the operational programme separately, where appropriate, for the regions eligible under the convergence objective and the non-convergence objective

Commitments shall be made on an annual basis according to the following plan:

Operational programme reference (CCI number):

Year by source for the programme, in EUR:

Convergence objective regions

Year	EFF
2007	
2008	
2009	
2010	
2011	
2012	
2013	
Total EFF	

Non-convergence objective regions

Year	EFF
2007	
2008	
2009	
2010	
2011	
2012	
2013	
Total EFF	

Table II: Financing plan of the operational programme giving, separately for the whole programming period, and for each priority axis, and separately, where appropriate, for regions eligible under the convergence objective and the non-convergence objective, the amount of the total financial allocation of the EFF in the operational programme, the national public contribution and the rate of reimbursement by priority axis

Operational programme reference (CCI number):

Priority axes in EUR

Table II: Financial table for operational programme by priority axis

Convergence objective regions

Priority	Total public a = (b + c)	EFF contribution (b)	National contribution (c)	EFF co-financing rate ⁽¹⁾ (d) = (b) / (a) x 100
Priority axis 1				
Priority axis 2				
Priority axis 3				
Priority axis 4				
Priority axis 5 ⁽²⁾				
Total				

(1) The EFF co-financing rate may be rounded-off in the table. The precise rate used to reimburse payments is the percentage (d).

(2) In the case of operational programmes covering a mix of regions eligible under the convergence objective and the non-convergence objective, the total public contribution for priority axis 5 may be allocated to the predominant type of regions which have the highest total amount of public contribution in the operational programme.

Non-convergence objective regions

Priority	Total public a = (b + c)	EFF contribution (b)	National contribution (c)	EFF co-financing rate ⁽¹⁾ (d) = (b) / (a) x 100
Priority axis 1				
Priority axis 2				
Priority axis 3				
Priority axis 4				
Priority axis 5 ⁽²⁾				
Total				

(1) The EFF co-financing rate may be rounded-off in the table. The precise rate used to reimburse payments is the percentage (d).

(2) In the case of operational programmes covering a mix of regions eligible under the convergence objective and the non-convergence objective, the total public contribution for priority axis 5 may be allocated to the predominant type of regions which have the highest total amount of public contribution in the operational programme.

ANNEX II

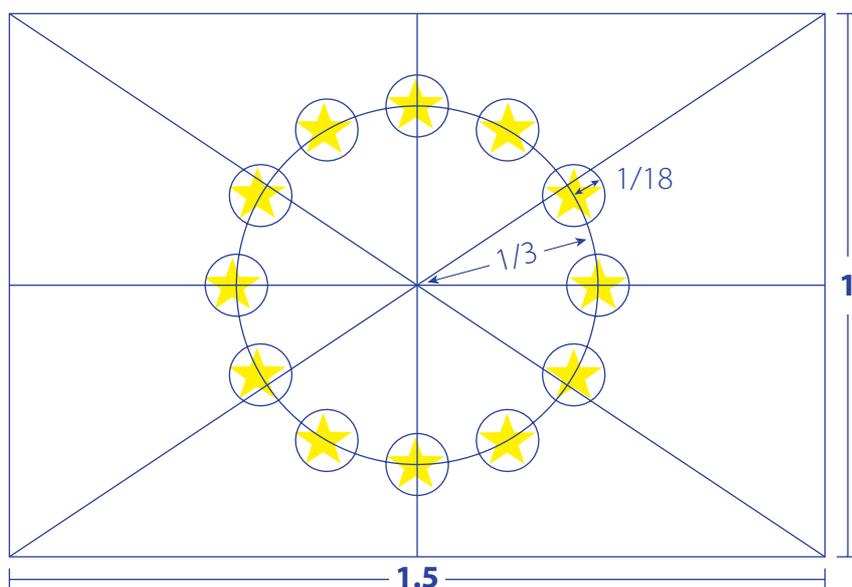
Instructions for creating the emblem and a definition of the standard colours

Symbolic description

Against a background of blue sky, 12 golden stars form a circle representing the union of the peoples of Europe. The number of stars is fixed, 12 being the symbol of perfection and unity.

Heraldic description

On an azure field a circle of twelve golden mullets, their points not touching.

Geometric description

The emblem has the form of a blue rectangular flag of which the fly is one and a half times the length of the hoist. Twelve gold stars situated at equal intervals form an invisible circle whose centre is the point of intersection of the diagonals of the rectangle. The radius of the circle is equal to one third of the height of the hoist. Each of the stars has five points which are situated on the circumference of an invisible circle whose radius is equal to 18th of the height of the hoist. All the stars are upright, i.e. with one point vertical and two points in a straight line at right angles to the mast. The circle is arranged so that the stars appear in the position of the hours on the face of a clock. Their number is invariable.

Regulation colours**PANTONE REFLEX BLUE****PANTONE YELLOW**

The emblem is in the following colours:

PANTONE REFLEX BLUE for the surface of the rectangle;

PANTONE YELLOW for the stars.

Four-colour process

If the four-colour process is used, recreate the two standard colours by using the four colours of the four-colour process.

PANTONE YELLOW is obtained by using 100% 'Process Yellow'.

PANTONE REFLEX BLUE is obtained by mixing 100% 'Process Cyan' and 80% 'Process Magenta'.

Internet

In the web-palette **PANTONE REFLEX BLUE** corresponds to colour RGB:0/0/153 (hexadecimal: 000099) and **PANTONE YELLOW** to colour RGB:255/204/0 (hexadecimal: FFCC00).

Monochrome reproduction process



Using black, outline the rectangle in black and print the stars in black on white.



Using blue (Reflex Blue), use 100% with the stars reproduced in negative white.

Reproduction on a coloured background

If there is no alternative to a coloured background, put a white border around the rectangle, the width of the border being 1/25th of the height of the rectangle.



ANNEX III

List of data to be communicated on request to the Commission under article 40

The data on operations that the Commission may request at any time under Article 40 of this Regulation comprises the following information, without prejudice to other information required for financial management, monitoring, control or evaluation and specified in Regulation (EC) No 1198/2006.

At the written request of the Commission, the Member State shall provide the Commission with the appropriate information within 15 working days of receipt of the request or other agreed period for the purpose of carrying out documentary and on-the-spot checks. The Commission may require the information at the level of the operations, measures, priority axes or of the operational programme.

Member State*Details of the operation*

- Convergence objective
 - Non-convergence objective
- (delete as appropriate)

Short description of the operation using data listed here after, where appropriate

C.C.I. (common identification code) for programme

Commission Decision approving the Operational programme No... of...../...../200..

Information on individual operations

Financial data expressed in EUR

Wording of columns: see hereafter.

(1)	(2)	(3)	(16)	(17)	(18)
-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	------	------	------

Name, status and signature of representative of competent authority:

Date:/...../200..

Wording of table columns

(Information to be provided for each operation)

Columns 1 to 5: administrative details of operation

(1) Operation identification number (number allocated by the managing authority when an administrative decision granting public aid is taken — 20 characters maximum).

(2) To be completed only where the operation comes under Priority axis 1: Community Fleet Register number (CFR) (do not give registration number); an operation shall concern only one vessel.

(3) The place where the operation is carried out (commune).

(4) NUTS III code for the place where the operation is carried out.

(5) Beneficiary (business name).

(6) Gender (male, female).

Columns 7 to 10: expenditure forecasts under the operation in accordance with the administrative decision granting public aid taken by managing authority

(7) Total cost taken into account in the decision granting public aid (EUR).

(8) Total public cost taken into account in the decision granting public aid (EUR).

(9) EFF aid granted to the operation (EUR).

(10) Date of the administrative decision granting public aid (dd/mm/yyyy).

Columns 11 to 15: physical data concerning the operation (classification and physical implementation)

(11) Measure (2 digits) in accordance with nomenclature (individual operation may concern one measure only)

(12) Action (1 digit) in accordance with nomenclature (individual operation may consist of more than one action; in that case, give one action per line and use several lines).

(13) Implementation data (1 or 2 digits) in accordance with nomenclature (an action forming part of an operation may feature more than one implementation data; in that case, give one implementation data only per line and use several lines).

(14) Physical quantity achieved (one quantity for each implementation data).

(15) State of implementation of operation (1 digit): code 0 (operation covered by a decision granting aid but for which no expenditure has yet been declared to the managing authority)/code 1 (operation under way)/code 2 (operation interrupted following partial implementation)/code 3 (operation abandoned following partial implementation)/code 4 (operation completed).

Columns 16 to 18: information concerning financial implementation of operation — statement of eligible expenditure and corresponding public aid

(16) Eligible expenditure certified and actually paid by beneficiaries (EUR) whose accuracy has been checked in accordance with Article 39(2) of this Regulation.

(17) National contribution (EUR): aids paid to beneficiaries by the Member State, including subsidies and other public aids, at national, regional or local level, within the limits set by Annex II to Regulation (EC) No 1198/2006.

(18) EFF aid paid to beneficiaries (EUR).

NOMENCLATURE OF PRIORITY AXES, MEASURES, ACTIONS AND IMPLEMENTATION DATA

Priority axis 1: Measures for the adaptation of the Community fishing fleet

Measure 1.1: Permanent cessation of fishing activities

- Action 1: Scrapping
 - Data 1: GT
 - Data 2: kW

- Action 2: Reassignment for activities outside fishing
 - Data 1: GT
 - Data 2: kW

- Action 3: Reassignment for the creation of artificial reefs
 - Data 1: GT
 - Data 2: kW

Measure 1.2: Temporary cessation of fishing activities

- Action 1: Temporary cessation of activities
 - Data 1: Number of fishers/day
 - Data 2: Vessels concerned if appropriate

Measure 1.3: Investments on board fishing vessels and selectivity

- Action 1: Improvement of safety on board
 - Data 1: Vessel concerned
- Action 2: Improvement of working conditions
 - Data 1: Vessel concerned
- Action 3: Improvement of hygiene
 - Data 1: Vessel concerned
- Action 4: Improvement of product quality
 - Data 1: Vessel concerned
- Action 5: Improvement of energy efficiency
 - Data 1: Vessel concerned
- Action 6: Improvement of selectivity
 - Data 1: Vessel concerned
- Action 7: Replacement of engine
 - Data 1: Power of engine (after modernisation) (kW)
 - Data 2: Decrease of power related to engines replaced (-kW)
 - Data 3: Vessel concerned
- Action 8: Replacement of gear
 - Data 1: Number of fishing gear replaced
 - Data 2: Vessel concerned
- Action 9: Others investments on board fishing vessels and selectivity
 - Data 1: Vessel concerned

Measure 1.4: Small-scale coastal fishing

- Action 1: Small-scale coastal fishing
 - Data 1: Number of fishers/owners of fishing vessels that have received premiums in order to improve management and control of access conditions to certain fishing areas.
 - Data 2: Number of fishers/owners of fishing vessels that have received premiums in order to promote the organisation of the production, processing and marketing chain of fisheries products.
 - Data 3: Number of fishers/owners of fishing vessels that have received premiums in order to encourage voluntary steps to reduce fishing effort for the conservation of resources.
 - Data 4: Number of fishers/owners of fishing vessels that have received premiums in order to encourage the use of technological innovations that do not increase fishing effort.
 - Data 5: Total number of fishers/owners of fishing vessels that have received premiums in order to improve safety training.
 - Data 6: Number of female fishers/owners of fishing vessels that have received premiums in order to improve safety training.
 - Data 7: Total number of fishers/owners of fishing vessels that have received premiums in order to improve professional skills.
 - Data 8: Number of female fishers/owners of fishing vessels that have received premiums in order to improve professional skills.

Measure 1.5: Socio-economic compensations for the management of the fleet

- Action 1: Socio-economic compensations
 - Data 1: Total number of fishers concerned by the diversification of activities, if appropriate.
 - Data 2: Number of female fishers concerned by the diversification of activities, if appropriate.

- Data 3: Total number of fishers concerned by early departure from the fishing sector.
- Data 4: Number of female fishers concerned by early departure from the fishing sector.
- Data 5: Total number of individual premiums to fishers younger than 40 years.
- Data 6: Number of individual premiums to female fishers younger than 40 years.
- Data 7: Total number of fishers concerned by the upgrading professional skills.
- Data 8: Number of female fishers concerned by the upgrading professional skills.
- Data 9: Total number of fishers benefiting of schemes for retraining outside fishing sector.
- Data 10: Number of female fishers benefiting of schemes for retraining outside fishing sector.
- Data 11: Number of training days received.
- Data 12: Total number of fishers benefiting from the non-renewable compensations, if appropriate.
- Data 13: Number of female fishers benefiting from the non-renewable compensations, if appropriate.

Priority axis 2: Aquaculture, inland fishing, processing and marketing of fishing and aquaculture products

Measure 2.1: Aquaculture

- Action 1: Increase in production capacity due to construction of new farms
 - Data 1: Tonnes/year of mussels
 - Data 2: Tonnes/year of clams
 - Data 3: Tonnes/year of oysters
 - Data 4: Tonnes/year of bass
 - Data 5: Tonnes/year of sea bream
 - Data 6: Tonnes/year of turbot
 - Data 7: Tonnes/year of salmon
 - Data 8: Tonnes/year of seawater farmed trout
 - Data 9: Tonnes/year of eel
 - Data 10: Tonnes/year of carp
 - Data 11: Tonnes/year of freshwater farmed trout
 - Data 12: Tonnes/year of tuna
 - Data 13: Tonnes/year of other species
 - Data 14: Size of enterprise (Micro, Small, Medium, Large)
- Action 2: Variation in production due to the extension or modernisation of existing farms
 - Data 1: Tonnes/year of mussels
 - Data 2: Tonnes/year of clams
 - Data 3: Tonnes/year of oysters
 - Data 4: Tonnes/year of bass
 - Data 5: Tonnes/year of sea bream
 - Data 6: Tonnes/year of turbot
 - Data 7: Tonnes/year of salmon
 - Data 8: Tonnes/year of seawater farmed trout
 - Data 9: Tonnes/year of eel
 - Data 10: Tonnes/year of carp
 - Data 11: Tonnes/year of freshwater farmed trout
 - Data 12: Tonnes/year of tuna
 - Data 13: Tonnes/year of other species
 - Data 14: Size of enterprise (Micro, Small, Medium, Large)
- Action 3: Increase in number of hatchery-produced fry
 - Data 1: Number/year of mussels
 - Data 2: Number/year of clams
 - Data 3: Number/year of oysters
 - Data 4: Number/year of bass
 - Data 5: Number/year of sea bream
 - Data 6: Number/year of turbot
 - Data 7: Number/year of salmon

- Data 8: Number/year of seawater farmed trout
- Data 9: Number/year of eel
- Data 10: Number/year of carp
- Data 11: Number/year of freshwater farmed trout
- Data 12: Number/year of tuna
- Data 13: Number/year of other species
- Data 14: Size of enterprise (Micro, Small, Medium, Large)
- Action 4: Aqua-environmental measures
 - Data 1: Unit that has implemented aqua-environmental measures as provided for in Article 30(2)(a) of Regulation (EC) No 1198/2006.
 - Data 2: Unit that has adhered to the Community eco-management and audit scheme (EMAS).
 - Data 3: Unit that has put in place organic production.
- Action 5: Public health measures
 - Data 1: Mollusc farmer that has benefited from compensation.
- Action 6: Animal health measures
 - Data 1: Farmer that has benefited from compensation.

Measure 2.2: Inland fishing

- Action 1: Inland fishing vessels
 - Data 1: Tonnage of vessel modernised (GT).
 - Data 2: Power of vessel modernised (kW).
 - Data 3: Tonnage of vessel re-assigned (GT).
 - Data 4: Power of vessel re-assigned (kW).
 - Data 5: Vessel concerned.
- Action 2: Investments for the construction of inland fishing facilities
 - Data 1: Unit that has benefited.
- Action 3: Investments for extension, equipment and modernisation of inland fishing facilities
 - Data 1: Unit that has benefited.

Measure 2.3: Fish processing and marketing

- Action 1: Increase in processing capacity (construction of new units and /or extension of existing units)
 - Data 1: Tonnes/year of fresh or chilled products.
 - Data 2: Tonnes/year of preserved or semi-preserved products.
 - Data 3: Tonnes/year of frozen or deep-frozen products.
 - Data 4: Tonnes/year of other processed products (prepared meals, smoked, salted, dried products).
 - Data 5: size of enterprise (Micro, Small, Medium, Large).
- Action 2: Construction, extension, equipment and modernisation of processing units
 - Data 1: Unit that has benefited from improved hygiene/working conditions.
 - Data 2: Unit that has benefited from improved environmental conditions.
 - Data 3: Unit that has put in place improved production systems (quality, technological innovations).
 - Data 4: Size of enterprise (Micro, Small, Medium, Large).
- Action 3: Construction of new marketing establishment
 - Data 1: m² of effective surface area.
 - Data 2: Size of enterprise (Micro, Small, Medium, Large).
- Action 4: Modernisation of existing marketing establishments
 - Data 1: Unit that has benefited from improved hygiene/working conditions.
 - Data 2: Unit that has benefited from improved environmental conditions.
 - Data 3: Unit that has put in place improved systems (quality, technological innovations).

- Data 4: Unit that has put in place the treatment, processing and marketing of fisheries and aquaculture products wastes.
- Data 5: Unit benefiting from this action broken down by size of enterprise (Micro, Small, Medium, Large).

Priority axis 3: Measures of common interest

Measure 3.1: Collective actions

- Data 1: Producers' organisations created.
- Data 2: Producers' organisations restructured.
- Data 3: Operation that upgrades professional skills, or develops new training methods and tools.
- Data 4: Operation that promotes partnership between scientists and operators in the fisheries sector.
- Data 5: Operation on networking and exchange of experience and best practice among organisations promoting equal opportunities between men and women and other stakeholders.
- Data 6: Other operation(s).

Measure 3.2: Protection and development of aquatic fauna and flora

- Data 1: Marine area (km²) protected by the installation of static or movable facilities.
- Data 2: Operation concerning rehabilitation of inland waters.
- Data 3: Operation concerning Nature 2000 areas.
- Data 4: Operation concerning spawning grounds and migration routes rehabilitated.

Measure 3.3: Fishing ports landing sites and shelters

- Action 1: Investments in existing fishing ports
 - Data 1: m³ of cold storage created.
 - Data 2: m³ of storage other than cold stores.
 - Data 3: Operation of handling installations.
 - Data 4: Operation of ice machines.
 - Data 5: Operation to supply installations (electricity, water, fuel).
 - Data 6: Operation regarding other facilities.
 - Data 7: m² of quays restructured.
 - Data 8: Linear metres of quays restructured.
 - Data 9: m² of surface usable for first sale.
- Action 2: Investments in restructuring and improvement of landing sites
 - Data 1: Landing site that has benefited.
- Action 3: Safety related investments for the construction or modernisation of small fishing shelters
 - Data 1: Fishing shelter that has benefited.
- Action 4: Safety related investments for the modernisation of small fishing shelters
 - Data 1: Fishing shelter that has benefited.

Measure 3.4: Development of new markets and promotion campaigns

- Data 1: Campaign for fisheries and aquaculture products.
- Data 2: Campaign to improve the image of fisheries.
- Data 3: Operation to promote products obtained using methods with low impact on the environment.
- Data 4: Operation to promote products recognised under the terms of Council Regulation (EEC) No 2081/92 (1).
- Data 5: Operation to implement a quality policy for fisheries and aquaculture products.
- Data 6: Operation to promote quality certification.
- Data 7: Operation to promote the supply of the market of surplus or underexploited species.
- Data 8: Operation to implement market surveys.

(1) OJ L 208, 24.7.1992, p. 1.

Measure 3.5: Pilot operations

- Data 1: Test on innovative technology.
- Data 2: Test on management plans and fishing effort allocation plans.
- Data 3: Operation to develop and test methods to improve gear selectivity/reduce by-catches and discards.
- Data 4: Operation to test alternative types of fishing management techniques.

Measure 3.6: Modification for reassignment of fishing vessels

- Data 1: Vessel modified for historical heritage.
- Data 2: Vessel modified for fisheries research (FR).
- Data 3: Vessel modified for training activities (TA).
- Data 4: Vessel modified for control (C).

Priority axis 4: Sustainable development of fisheries areas*Measure 4.1: Development of fisheries areas*

- Data 1: Operation for strengthening the competitiveness of the fisheries areas.
- Data 2: Operation for restructuring and redirecting economic activities.
- Data 3: Operation for diversifying activities.
- Data 4: Operation for adding value to fisheries products.
- Data 5: Operation for supporting small fisheries communities and tourism related infrastructure.
- Data 6: Operation for protecting the environment in fisheries areas.
- Data 7: Operation for re-establishing the production potential in fisheries areas.
- Data 8: Operation for promoting inter-regional and trans-national cooperation.
- Data 9: Operation for acquiring skills and facilitating the preparation and implementation of the local development strategy.
- Data 10: Operation for the contribution to the running cost of the groups.
- Data 11: Operation on communication actions by the groups.
- Data 12: Other operation(s).

Priority axis 5: Technical assistance*Measure 5.1: Technical assistance*

- Action 1: Management and implementation of programmes
 - Data 1: Operation for technical assistance for the implementation of the operational programme.
 - Data 2: Operation for improving administrative capacity.
 - Data 3: Operation on communications actions.
 - Data 4: Operation for facilitating networking.
 - Data 5: Operations for evaluation.
- Action 2: Studies (excluding evaluation)
 - Data 1: studies.
- Action 3: Publicity and information
 - Data 1: Operation for publicity.
 - Data 2: Operation for information to stakeholders.
- Action 4: Other technical assistance measures
 - Data 1: Operation of other kind of technical assistance.

ANNEX IV

Technical parameters for random statistical sampling under article 43 (sampling)

1. A random statistical sampling method allows conclusions to be drawn from the results of audits of the sample on the overall expenditure from which the sample was taken, and hence provides evidence to obtain assurance on the functioning of the management and control systems.
2. The assurance provided on the functioning of the systems is determined by the degree of confidence resulting from the conclusions of the system audits and from the audits of operations in the sample selected by a random statistical sampling method. In order to obtain a high level of assurance, that is, a reduced audit risk, the audit authority shall combine the results of system audits and audits of operations. The audit authority first evaluates the reliability of the systems (high, average or low), taking into account the results of the system audits, so as to determine the technical parameters of the sampling, in particular the confidence level and the expected error rate. Member States may also use the results of the report on the compliance assessment under Article 71(2) of Regulation (EC) No 1198/2006. The combined level of assurance obtained from the system audits and the audits of operations must be high. The confidence level used for sampling operations must not be less than 60% with a maximum materiality level of 2%. For a system evaluated as having low reliability, the confidence level used for sampling operations must not be below 90%. The audit authority shall describe in the annual control report the way assurance has been obtained.
3. The reliability of management and control systems shall be determined using criteria established by the audit authority for systems audits, including a quantified assessment of all key elements of the systems and encompassing the main authorities and intermediate bodies participating in the management and control of the operational programme. A record of the assessments carried out shall be kept in the audit file.

ANNEX V

Model audit strategy as provided for in article 61(1)(c) of regulation (EC) No 1198/2006**1. INTRODUCTION**

- Identification of the audit authority responsible for drawing up the audit strategy and of any other bodies which have contributed. Explanation of the procedure followed for drawing up the audit strategy.
- Specification of the overall objectives of the audit strategy.
- Explanation of the functions and responsibility of the audit authority and other bodies carrying out audits under its responsibility.
- Indication of the independence of the audit authority from the managing authority and certifying authority.
- Confirmation by the audit authority that the bodies that carry out the audits pursuant to Article 61(3) of Regulation (EC) No 1198/2006 have the requisite functional independence.

2. LEGAL BASIS AND SCOPE

- Indication of any national regulatory framework that affects the audit authority, and its functions.
- Indication of the period covered by the strategy.

3. METHODOLOGY

- Indicate the audit methodology to be followed taking account of internationally accepted audit standards (including but not limited to, INTOSAI, IFAC and IIA), audit manuals and any other specific documents.

4. AUDIT APPROACH AND PRIORITIES

- Materiality thresholds for planning purposes and for reporting deficiencies.
- Indication of the types of audits to be carried out (system audits, audits of operations).

- For system audits:
 - (a) Specification of the body or bodies responsible for the audit work;
 - (b) Specification of the bodies to be audited;
 - (c) Indication of any horizontal issues to be covered by the system audits, such as public procurement, state aid, environmental requirements, equal opportunities and IT systems.
- For audits of operations:
 - (a) Specification of the responsible body or bodies responsible for the audit work;
 - (b) Specification of the criteria for determining the assurance level gained from system audits and reference to the documentation used for applying the sampling methodology set out in Article 43;
 - (c) Specification of the procedure for determining steps to be taken where material errors are detected.
- Indication and justification of the priorities and audit objectives established for the whole programming period.
- Explanation of the linkage of the risk assessment results to the audit work planned.
- An indicative audit schedule of audit assignments for the forthcoming year provided in a table format.

5. RISK ASSESSMENT

- Indication of the procedures followed, including the extent to which the results of previous audits of the bodies and systems have been taken into account (such as audits from the 2000 to 2006 period, audit work for the compliance assessment).
- Indication of the managing authority, certifying authority and intermediate bodies covered.
- Indication of the risk factors taken into account, including any horizontal issues identified as risk areas.
- Indication of the results through identification and prioritisation of the key bodies, processes, controls and priority axes to audit.

6. RELIANCE ON THE WORK OF OTHERS

- Indication of the extent to which certain components are audited by other auditors and the extent of potential reliance on such work.
- Explanation of how the audit authority will ensure the quality of the work carried out by the other bodies, taking account of internationally accepted auditing standards.

7. RESOURCES

- Indication of planned resources to be allocated, at least for the forthcoming year.

8. REPORTING

- Indication of internal procedures for reporting, such as provisional and final audit reports, and of the right of the body audited to be heard and to provide an explanation before a final position is taken.

ANNEX VI

Model annual control report and opinion

PART A

Model annual control report under Article 61(1)(e)(i) of Regulation (EC) No 1198/2006 and Article 44(2) of the present Regulation**1. INTRODUCTION**

- Indication of the responsible audit authority and other bodies that have been involved in preparing the report.
- Indication of the 12-month (reference) period from which the random sample was drawn.
- Identification of the operational programme covered by the report (CCI number) and of its managing and certifying authority.
- Description of the steps taken to prepare the report.

2. CHANGES IN MANAGEMENT AND CONTROL SYSTEMS

- Indication of any significant changes in the management and control systems notified to the audit authority as compared with the description provided under Article 71(1) of Regulation (EC) No 1198/2006 and of the dates from which the changes apply.

3. CHANGES TO AUDIT STRATEGY

- Indication of any changes that have been made to the audit strategy or are proposed, and of the reasons behind them.

4. SYSTEMS AUDITS

- Indication of the bodies that have carried out systems audits, including the audit authority itself.
- Summary list of the audits carried out (bodies audited).
- Description of the basis for selection of the audits in the context of the audit strategy.
- Description of the principal findings and conclusions drawn from the audit work for the management and control systems, and their functioning, including the sufficiency of management checks, certification procedures and the audit trail, adequate separation of functions and compliance with Community requirements and policies.
- Indication of whether any problems identified were considered to be of a systemic character, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections.

5. AUDITS OF SAMPLE OF OPERATIONS

- Indication of the bodies that have carried out the sample audits, including the audit authority.
- Description of the basis for the selection of the sample(s).
- Indication of the materiality level and, in the case of statistical sampling, the confidence level applied and the interval, if applicable.
- Summary table (see point 9) indicating the eligible expenditure declared to the Commission during the calendar (reference) year (ending in the audit period), the amount of expenditure audited, and the percentage of expenditure audited in relation to total eligible expenditure declared to the Commission (both for the last calendar year and cumulatively). Information relating to the random sample must be distinguished from that related to other samples.

- Description of the principal results of the audits, indicating in particular the amount of irregular expenditure and the error rate resulting from the random sample audited.
- Indication of the conclusions drawn from the results of the audits with regard to the effectiveness of the management and control system.
- Information on the follow-up of irregularities including revision of previously reported error rates.
- Indication of whether any problems identified were considered to be systemic in nature, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections.

6. COORDINATION BETWEEN AUDIT BODIES AND SUPERVISION WORK OF THE AUDIT AUTHORITY

- Description of the procedure for supervision applied by the audit authority to other bodies carrying out the audits pursuant to Article 61(3) of Regulation (EC) No 1198/2006 (if applicable).

7. FOLLOW-UP OF PREVIOUS YEARS' AUDIT ACTIVITY

- Information on the follow-up of outstanding audit recommendations and on the follow up of systems audits and audits of operations from earlier years.

8. OTHER INFORMATION (IF APPLICABLE)

9. TABLE FOR DECLARED EXPENDITURE AND SAMPLE AUDITS

Convergence objective regions

Reference (CCI no)	Expenditure declared in reference year	Expenditure in reference year audited for the random sample		Amount and percentage (error rate) of irregular expenditure in random sample		Other expenditure audited ⁽¹⁾	Amount of irregular expenditure in other expenditure sample	Total expenditure declared cumulatively	Total expenditure audited cumulatively as a percentage of total expenditure declared cumulatively
		⁽²⁾	⁽³⁾	Amount	%				

- (1) Expenditure for complementary sample and expenditure for random sample not in the reference year.
(2) Amount of expenditure audited.
(3) Percentage of expenditure audited in relation to eligible expenditure declared to the Commission in the reference year.

Non-convergence objective regions

Reference (CCI no)	Expenditure declared in reference year	Expenditure in reference year audited for the random sample		Amount and percentage (error rate) of irregular expenditure in random sample		Other expenditure audited ⁽¹⁾	Amount of irregular expenditure in other expenditure sample	Total expenditure declared cumulatively	Total expenditure audited cumulatively as a percentage of total expenditure declared cumulatively
		⁽²⁾	⁽³⁾	Amount	%				

- (1) Expenditure for complementary sample and expenditure for random sample not in the reference year.
(2) Amount of expenditure audited.
(3) Percentage of expenditure audited in relation to eligible expenditure declared to the Commission in the reference year.

PART B

Model annual opinion under Article 61(1)(e)(ii) of Regulation (EC) No 1198/2006 and Article 44(2) of the present Regulation

To the European Commission, Directorate-General [...]

1. INTRODUCTION

I, the undersigned, representing the (name of body designated by Member State), have examined the functioning of the management and control systems in the operational programme (name of operational programme, CCI code number, period), in order to issue an opinion on whether the systems functioned effectively so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and as a consequence reasonable assurance that the underlying transactions are legal and regular.

2. SCOPE OF THE EXAMINATION

The examination was carried out in accordance with the audit strategy in respect of this programme during the period 1 July to 30 June (year) and reported in the attached annual control report under Article 61(1)(e)(i) of Regulation (EC) No 1198/2006.

Either

There were no limitations on the scope of the examination

Or

The scope of the examination was limited by the following factors:

- (a)
- (b)
- (c) etc.

(Indicate any limitation on the scope of the examination, for example any systemic problems, weaknesses in the management and control system, lack of supporting documentation, cases under legal proceedings, etc and estimate the amounts of the expenditure and the Community contribution affected. If the audit authority does not consider that the limitations have an impact on the final expenditure declared, this must be stated).

3. OPINION**Either**

(Unqualified opinion)

Based on the examination referred to above, it is my opinion that for the abovementioned period the management and control system established for the programme ... (name of operational programme, CCI code number, period) complied with the applicable requirements of Articles 57 to 61 of Regulation (EC) No 1198/2006 and Chapter VII of Commission Regulation (EC) No 498/2007 ⁽¹⁾ and functioned effectively so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and as a consequence reasonable assurance that the underlying transactions are legal and regular.

Or

(Qualified opinion)

Based on the examination referred to above, it is my opinion that for the abovementioned period the management and control systems established for the programme ... (name of operational programme, CCI code number, period) complied with the applicable requirements of Articles 57 to 61 of Regulation (EC) No 1198/2006 and Chapter VII of Commission Regulation (EC) No 498/2007 and functioned effectively so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and as a consequence reasonable assurance that the underlying transactions are legal and regular, except in the following respects ⁽²⁾.

My reasons for considering that this (these) aspect(s) of the systems did not comply with the requirements and/or did not operate in such a way as to give a reasonable assurance that the statements of expenditure presented to the Commission are correct as follows ... ⁽³⁾.

(1) OJ L 120, 10.5.2007, p. 1.

(2) Indicate the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not operate effectively.

(3) Indicate for each body and each aspect of the system the reasons for the qualification.

I estimate the impact of the qualification(s) to be ... of the total expenditure declared. The Community contribution affected is thus ...

Or

(Adverse opinion)

Based on the examination referred to above, it is my opinion that for the abovementioned period the management and control system established for the programme ... (name of operational programme, CCI code number, period) did not comply with the requirements of Articles 57 to 61 of Regulation (EC) No 1198/2006 and Chapter VII of Commission Regulation (EC) No 498/2007 and did not function effectively so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and, as a consequence, does not provide reasonable assurance that the underlying transactions are legal and regular.

This adverse opinion is based on ... (1):

Date:

Signature:

ANNEX VII

Model of final control and closure declaration for the operational programme under article 61(1)(f) of regulation (EC) No 1198/2006 and article 44(3) of the present regulation

PART A

Model final control report

1. INTRODUCTION

- Indication of the responsible audit authority and other bodies that have been involved in preparing the report.
- Indication of the last reference period from which the random sample was drawn.
- Identification of the operational programme covered by the report and its managing and certifying authorities.
- Description of the steps taken to prepare the report.

2. CHANGES IN MANAGEMENT AND CONTROL SYSTEMS AND AUDIT STRATEGY (2)

- Indication of any significant changes in the management and control systems notified to the audit authority as compared with the description provided under Article 71(1) of Regulation (EC) No 1198/2006, and of the dates from which the changes apply.
- Indication of any changes that have been made to the audit strategy and reasons for such changes.

3. SUMMARY OF AUDITS CARRIED OUT UNDER ARTICLE 61(1)(a) AND (b) OF REGULATION (EC) No 1198/2006 AND ARTICLE 43 OF THE PRESENT REGULATION

For systems audits:

- Indication of the bodies that have carried out systems audits, including the audit authority itself.
- Summary list of audits carried out: bodies audited and year of audit.
- Description of the basis for selection of audits in the context of the audit strategy (3).

(1) Indicate for each body and each aspect the reasons for the adverse opinion.

(2) For changes not indicated in earlier annual control reports.

(3) For audits not covered by earlier annual control reports.

- Description of the principal findings and the conclusions drawn from the audit work for the management and control systems and their functioning, including the sufficiency of management checks, certification procedures and the audit trail, adequate separation of functions and compliance with Community requirements and policies ⁽¹⁾.
- Indication of whether any problems identified were considered to be of a systemic character, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections ⁽¹⁾.

For audits of operations:

- Indication of the bodies that carried out the sample audits, including the audit authority itself.
- Description of the basis for selection of the sample(s).
- Indication of the materiality level and, in the case of statistical sampling, the confidence level applied and the interval, if applicable.
- Description of the principal results of the audits, indicating in particular the amount of irregular expenditure and the error rate resulting from the random sample audited ⁽¹⁾.
- Indication of the conclusions drawn from the results of the audits with regard to the effectiveness of the management and control system.
- Information on the follow-up of irregularities, including revision of previously reported error rates.
- Indication of whether any problems identified were considered to be systemic in nature, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections ⁽¹⁾.

4. FOLLOW-UP OF AUDIT ACTIVITY

- Information on the follow-up of the results of systems audits and audits of operations.

5. ADDITIONAL WORK UNDERTAKEN BY AUDIT AUTHORITY IN PREPARING ITS CLOSURE DECLARATION

- Summary of audits of closure procedure of managing and certifying authorities and intermediate bodies.
- Summary of the results of the examination of the debtors' ledger kept under Article 60(f) of Regulation (EC) No 1198/2006.
- Summary of the results of re performance of controls on the accuracy of the amounts declared in relation to supporting documents.
- Summary of the results of examination of reports of other national or Community audit bodies (specify by category which reports have been received and examined).
- Summary of the results of the examination of information relating to follow-up of audit findings and dealing with irregularities.
- Summary of the results of the examination of additional work carried out by managing and certifying authorities to enable an unqualified opinion to be provided.
- Other.

6. LIMITATIONS ON THE SCOPE OF THE EXAMINATION BY THE AUDIT AUTHORITY

- Details of any factors that have limited the scope of the examination by the audit authority must be reported ⁽²⁾.
- Estimated amounts of expenditure and the Community contribution that are affected must be stated.

⁽¹⁾ For audits not covered by earlier annual control reports.

⁽²⁾ Examples of such matters include systemic problems, weaknesses in management and control systems, lack of supporting documents, and cases under legal proceedings.

7. REPORTED IRREGULARITIES

- Confirmation that the procedure for reporting and following up irregularities, including the treatment of systemic problems, has been carried out in accordance with regulatory requirements.
- Confirmation of the accuracy of the information given in final report on implementation on the irregularities reported under Article 70(1)(b) of Regulation (EC) No 1198/2006.
- A list of cases of irregularity regarded as systemic and the amounts of expenditure affected.

8. OTHER INFORMATION (IF APPLICABLE)

9. TABLE FOR DECLARED EXPENDITURE AND SAMPLE AUDITS

Convergence objective regions

Reference (CCI No)	Expenditure declared in reference year	Expenditure in reference year audited for the random sample		Amount and percentage (error rate) of irregular expenditure in random sample		Other expenditure audited ⁽¹⁾	Amount of irregular expenditure in other expenditure sample	Total expenditure declared cumulatively	Total expenditure audited cumulatively as a percentage of total expenditure declared cumulatively
		⁽²⁾	⁽³⁾	Amount	%				

(1) Expenditure for complementary sample and expenditure for random sample not in the reference year.

(2) Amount of expenditure audited.

(3) Percentage of expenditure audited in relation to eligible expenditure declared to the Commission in the reference year.

Non-convergence objective regions

Reference (CCI No)	Expenditure declared in reference year	Expenditure in reference year audited for the random sample		Amount and percentage (error rate) of irregular expenditure in random sample		Other expenditure audited ⁽¹⁾	Amount of irregular expenditure in other expenditure sample	Total expenditure declared cumulatively	Total expenditure audited cumulatively as a percentage of total expenditure declared cumulatively
		⁽²⁾	⁽³⁾	Amount	%				

(1) Expenditure for complementary sample and expenditure for random sample not in the reference year.

(2) Amount of expenditure audited.

(3) Percentage of expenditure audited in relation to eligible expenditure declared to the Commission in the reference year.

PART B

Closure declaration

To the European Commission, Directorate-General [...]

1. INTRODUCTION

I, the undersigned, ... representing the (name of the body designated by Member State), have for the operational programme ... (name of the operational programme, CCI code number, period) examined the results of the audit work carried out on this programme by or under the responsibility of the audit authority in accordance with the audit strategy (and have carried out the additional work I judged necessary). The results of the examination and the additional work I have performed are summarised in the attached final control report (which also contains the information required by the annual control reports for the period 1 January 2015 to 31 December 2016). I have planned and performed this work with a view to obtaining a reasonable assurance as to whether the payment application for the balance of the Community contribution to the programme is correct and valid and the underlying transactions covered by the final statement of expenditure are legal and regular.

2. SCOPE OF THE EXAMINATION

The examination was carried out in accordance with the audit strategy in respect of this programme and reported in the attached final control report under Article 61(1)(f) of Regulation (EC) No 1198/2006.

Either

There were no limitations on the scope of the examination.

Or

The scope of the examination was limited by the following factors:

- (a)
- (b)
- (c) etc.

(Indicate any limitation on the scope of the examination, for example any systemic problems, weaknesses in the management and control system, lack of supporting documentation, cases under legal proceedings, etc., and estimate the amounts of expenditure and the Community contribution affected. If the audit authority does not consider that the limitations have an impact on the final expenditure declared, this must be stated).

3. IRREGULARITIES AND ERROR RATES

Either

The cases of irregularity and error rates found in the audit work is not such as to preclude an unqualified opinion given the satisfactory way they have been dealt with by the managing authority and the trend in the level of their occurrence over time.

Or

The cases of irregularity and error rates found in the audit work and the way they have been dealt with by the managing authority are such as to preclude an unqualified opinion. A list of these cases is provided in the final control report, together with an indication of their possible systemic character and the scale of the problem. The amounts of total declared expenditure and public contribution that could be affected are ... respectively. As a consequence, the corresponding Community contribution that could be affected is ...

4. OPINION

Either

(Unqualified opinion)

If there were no limitations on the scope of the examination and the cases of irregularity and error rates and the way they have been dealt with by the managing authority do not preclude an unqualified opinion:

Based on the examination referred to above, it is my opinion that the final statement of expenditure presents fairly, in all material respects, the expenditure paid under the operational programme, that the application for payment of the balance of the Community contribution to this programme is valid and that the underlying transactions covered by the final statement of expenditure are legal and regular.

Or

(Qualified opinion)

If there were limitations on the scope of the examination and/or cases of irregularity and error rates and the way they have been dealt with by the managing authority call for a qualified opinion but do not justify an unfavourable opinion for all the expenditure concerned:

Based on the examination referred to above, it is my opinion that the final statement of expenditure presents fairly, in all material respects, the expenditure paid under the operational programme, that the application for payment of the balance of the Community contribution to this programme is valid and that the underlying transactions covered by the final statement of expenditure are legal and regular, except with regard to the matters referred to at point 2 above and/or to the observations at point 3 regarding the error rates and cases of irregularity and the way they have been dealt with by the managing authority, the impact of which is quantified above. I estimate the impact of these qualifications to be ... of the total expenditure declared. The Community contribution affected is thus ...

Or

(Adverse opinion)

If there were major limitations on the scope of the examination error rates and cases of irregularity and the way they have been dealt with by the managing authority are such that no conclusion can be reached on the reliability of the final statement of expenditure without considerable further work:

Based on the examination referred to above, and in particular in view of the matters referred to at point 2 and/or the error rates and cases of irregularity and the fact that they have not been dealt with satisfactorily by the managing authority as reported at point 3, it is my opinion that that the final statement of expenditure does not present fairly, in all material respects, the expenditure paid under the operational programme, that, as a consequence, the application for payment of the balance of the Community contribution to this programme is not valid and that the underlying transactions covered by the final statement of expenditure are not legal and regular.

Date:

Signature:

ANNEX VIII

Model declaration for the partial closure of the operational programme under article 44(5)

To the European Commission, Directorate-General [...]

The managing authority for the programme ... (name of the operational programme, CCI code number, period) has submitted a statement of expenditure relating to operations [completed as at ... (date up to which operations were completed)/completed between ... and ... (dates between which operations were completed)] and is applying for partial closure of the programme under Article 85(2)(b) of Regulation (EC) No 1198/2006 for these operations.

I, the undersigned, representing the (name of the body designated by the Member State), have examined the results of the audit work carried out on this programme as set out in the annual control reports and annual opinions issued under Article 61(1)(e)(i) and (ii) of Regulation (EC) No 1198/2006 for the year/years ...

I have planned and performed this work with a view to obtaining a reasonable assurance as to whether the statement of expenditure concerned is correct and valid and the underlying transactions covered by the statement of expenditure are legal and regular.

Opinion

Based on the examination referred to above, it is my opinion that the statement of expenditure on completed operations submitted by the managing authority for the programme ... (name of operational programme, CCI code number, period) for the purpose of partial closure of the programme in respect of operations (completed as at .../completed between ... and ...) presents fairly, in all material respects, the expenditure paid and that the underlying transactions are legal and regular.

Date:

Signature:

Certificate and statement of expenditure and application for payment

PART A

Certificate and statement of expenditure and application for interim payment

<p>EUROPEAN COMMISSION</p> <p><i>European Fisheries Fund</i></p> <p>Certificate and statement of expenditure and payment application</p>
<p><i>Member State:</i></p> <p><i>Commission Decision</i> <i>of</i></p> <p><i>Commission reference (CCI) No:</i></p> <p><i>Convergence and non-convergence regions:</i></p>

CERTIFICATE

I, the undersigned,

representing the certifying authority designated by (*):

hereby certify that all expenditure included in the attached statement complies with the criteria for eligibility of expenditure set out in Article 55 of Regulation (EC) No 1198/2006 and has been paid by the beneficiaries on the implementation of the operations selected under the operational programme in accordance with the conditions for granting of public contributions under Article 78 of that Regulation.

after ⁽²⁾

..	..	20..
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and amounts to: EUR ⁽³⁾

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(exact figure to two decimal places)

The attached statement of expenditure, broken down by priority axis, is based on accounts provisionally closed on

..	..	20 ..
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and forms an integral part of this certificate.

I also certify that operations are progressing in pursuance with the objectives laid down in the Decision and in accordance with Regulation (EC) No 1198/2006, and in particular that:

- (1) the expenditure declared complies with the applicable Community and national rules and has been paid in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and the applicable Community and national rules;
- (2) the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents;
- (3) the underlying transactions are lawful and comply with the rules and the procedures have been followed satisfactorily;
- (4) the statement of expenditure and the payment application take account, where applicable, of any amounts recovered, any interest received and of revenue accruing from operations financed under the operational programme.
- (5) the breakdown of the underlying operations is recorded on computer files and is available to the relevant Commission departments on request.

In accordance with Article 87 of Regulation (EC) No 1198/2006, the supporting documents are and will continue to be available for at least three years following the closure of the operational programme by the Commission (without prejudice to the special conditions laid down in Article 98(1) of that Regulation).

Date:

..	..	20..
----	----	------

Name in capitals, stamp, position and signature
of competent authority:

.....

(*1) Indicate the administrative instrument of designation in accordance with Article 58 of Regulation (EC) No 1198/2006 with any references and the date.

(*2) Reference date according to the Decision.

(*3) Total amount of eligible expenditure paid by beneficiaries.

Statement of expenditure by priority axis: Interim payment

Operational programme reference No (CCI No):

Member State:

Date of provisional closure of accounts: Date of submission to the Commission:

Total certified eligible expenditure paid in regions eligible under the convergence objective:

Priority axis	2007-2015		
	Total amount of eligible expenditure paid by beneficiaries	EFF contribution	National contribution
<i>Priority axis 1</i>			
Priority axis 1: Total			
Priority axis 1: Total expenses relating to operations which have been subject to partial closure at 31/12/20 ..			
<i>Priority axis 2</i>			
Priority axis 2: Total			
Priority axis 2: Total expenses relating to operations which have been subject to partial closure at 31/12/20 ..			
<i>Priority axis 3</i>			
Priority axis 3: Total			
Priority axis 3: Total expenses relating to operations which have been subject to partial closure at 31/12/20 ..			
<i>Priority axis 4</i>			
Priority axis 4: Total			
Priority axis 4: Total expenses relating to operations which have been subject to partial closure at 31/12/20 ..			
<i>Priority axis 5</i>			
Priority axis 5: Total			
Priority axis 5: Total expenses relating to operations which have been subject to partial closure at 31/12/20 ..			
Grand total			
Grand total of expenses relating to operations which have been subject to partial closure ⁽¹⁾			

(¹) Partial closure concerns operations completed as at 31 December of the year preceding the year of partial closure. The list of operations which have been subject to partial closure is made available to the Commission upon request.

Total certified eligible expenditure paid in regions eligible under the non-convergence objective:			
Priority axis	2007-2015		
	Total amount of eligible expenditure paid by beneficiaries	EFF contribution	National contribution
<i>Priority axis 1</i>			
Priority axis 1: Total			
Priority axis 1: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 2</i>			
Priority axis 2: Total			
Priority axis 2: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 3</i>			
Priority axis 3: Total			
Priority axis 3: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 4</i>			
Priority axis 4: Total			
Priority axis 4: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 5</i>			
Priority axis 5: Total			
Priority axis 5: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
Grand total			
Grand total of expenses relating to operations which have been subject to partial closure at 31/12/20..			

Breakdown by year of the total certified eligible expenditure paid in regions under the convergence objective ⁽²⁾:

	Amounts of expenditure (in euros)
Grand total 2007-2015	
2007	
2008	
2009	
2010	
2011	
2012	
2013	
2014	
2015	

Breakdown by year of the total certified eligible expenditure paid in regions under the non-convergence objective ⁽²⁾:

	Amounts of expenditure (in euros)
Grand total 2007-2015	
2007	
2008	
2009	
2010	
2011	
2012	
2013	
2014	
2015	

⁽²⁾ By year: the breakdown mentioned in this table shall correspond to the payments made by the beneficiaries in the year concerned. Where it is not possible to establish this breakdown precisely, the best estimate of the breakdown must be given.

APPLICATION FOR PAYMENT: Interim payment

Member State:

Operational programme reference No (CCI):

Pursuant to Article 60 of Council Regulation (EC) No 1198/2006, I, the undersigned (name in capitals, stamp, position and signature of competent authority), hereby request that you pay by way of interim payment the sum of: The amount requested has been calculated following the provisions of Article 76(1)/76(2) ⁽¹⁾ of that Regulation.

(EUR)

	Convergence objective	Non-convergence objective
EFF		

This application is admissible because:

	Delete as appropriate
(a) no more than the maximum amount of assistance from the EFF as laid down in the decision of the Commission approving the operational programme has been paid by the Commission during the whole period for each priority axis;	
(b) the managing authority has submitted to the Commission the most recent annual report on implementation in accordance with Article 67 (1) and (3) of Regulation (EC) No 1198/2006.	<ul style="list-style-type: none"> — has been submitted by the managing authority within the time limit laid down — is attached — is not due.
(c) there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the Treaty, as regards the operation(s) for which the expenditure is declared in the application for payment.	

The payment shall be made by the Commission to the body designated by the Member State for the purposes of making payments

Designated body	
Bank	
Bank account No	
Holder of account (where not the same as the designated body)	

Date

..	..	20 ..
----	----	-------

Name in capitals, stamp, position and signature
of competent authority

.....

⁽¹⁾ Delete as appropriate. If the Member State chooses the option provided for under Article 76(2) of Regulation (EC) No 1198/2006, it shall state the specific and proper reasons for this choice.

PART B

Certificate and statement of expenditure and application for final payment

EUROPEAN COMMISSION

European Fisheries Fund

Certificate and statement of expenditure and payment application

Member State:

Commission Decision *of*

Commission reference (CCI) No:

CERTIFICATE

I, the undersigned,

representing the certifying authority designated by ⁽¹⁾:

hereby certify that all expenditure included in the attached statement complies with the criteria for eligibility of expenditure set out in Article 55 of Regulation (EC) No 1198/2006 and has been paid by the beneficiaries on the implementation of the operations selected under the operational programme in accordance with the conditions for granting of public contributions under Article 78 of that Regulation.

after ⁽²⁾

..	..	20..
----	----	------

and amounts to: EUR ⁽³⁾

--

(exact figure to two decimal places)

The attached statement of expenditure, broken down by priority axis, is based on accounts provisionally closed on

..	..	20..
----	----	------

and forms an integral part of this certificate.

I also certify that operations are progressing in pursuance with the objectives laid down in the Decision and in accordance with Regulation (EC) No 1198/2006, and in particular that:

- (1) the expenditure declared complies with the applicable Community and national rules and has been paid in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and the applicable Community and national rules;
- (2) the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents;
- (3) the underlying transactions are lawful and comply with the rules and the procedures have been followed satisfactorily;
- (4) the statement of expenditure and the payment application take account, where applicable, of any amounts recovered, any interest received and of revenue accruing from operations financed under the operational programme.
- (5) the breakdown of the underlying operations is recorded on computer files and is available to the relevant Commission departments on request.

In accordance with Article 87 of Regulation (EC) No 1198/2006, the supporting documents are and will continue to be available for at least three years following the closure of the operational programme by the Commission (without prejudice to the special conditions laid down in Article 98(1) of that Regulation).

Date:

..	..	20..
----	----	------

Name in capitals, stamp, position and signature
of competent authority:

.....

⁽¹⁾ Indicate the administrative instrument of designation in accordance with Article 58 of Regulation (EC) No 1198/2006 with any references and the date.

⁽²⁾ Reference date according to the Decision.

⁽³⁾ Total amount of eligible expenditure paid by beneficiaries.

Statement of expenditure by priority axis: Payment of balance

Operational programme reference No (CCI No):

Member State:

Date of final closure of accounts: Date of submission to the Commission:

Total certified eligible expenditure paid in regions eligible under the convergence objective:

Priority axis	2007-2015		
	Total amount of eligible expenditure paid by beneficiaries	EFF contribution	National contribution
<i>Priority axis 1</i>			
Priority axis 1: Total			
Priority axis 1: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 2</i>			
Priority axis 2: Total			
Priority axis 2: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 3</i>			
Priority axis 3: Total			
Priority axis 3: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 4</i>			
Priority axis 4: Total			
Priority axis 4: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 5</i>			
Priority axis 5: Total			
Priority axis 5: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
Grand total			
Grand total of expenses relating to operations which have been subject to partial closure ⁽¹⁾			

⁽¹⁾ Partial closure concerns operations completed as at 31 December of the year preceding the year of partial closure. The list of operations which have been subject to partial closure must be made available to the Commission upon request.

Total certified eligible expenditure paid in regions eligible under the non-convergence objective:			
Priority axis	2007-2015		
	Total eligible expenditure paid by beneficiaries	EFF contribution	National contribution
<i>Priority axis 1</i>			
Priority axis 1: Total			
Priority axis 1: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 2</i>			
Priority axis 2: Total			
Priority axis 2: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 3</i>			
Priority axis 3: Total			
Priority axis 3: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 4</i>			
Priority axis 4: Total			
Priority axis 4: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
<i>Priority axis 5</i>			
Priority axis 5: Total			
Priority axis 5: Total expenses relating to operations which have been subject to partial closure at 31/12/20..			
Grand total			
Grand total of expenses relating to operations which have been subject to partial closure at 31/12/20.. (1)			

(1) Partial closure concerns operations completed as at 31 December of the year preceding the year of partial closure. The list of operations which have been subject to partial closure must be made available to the Commission upon request.

Breakdown by year of the total certified eligible expenditure paid in regions eligible under the convergence objective ⁽²⁾:

	Amounts of expenditure (in EUR)
Grand total 2007-2015.	
2007	
2008	
2009	
2010	
2011	
2012	
2013	
2014	
2015	

Breakdown by year of the total certified eligible expenditure paid in regions eligible under the Non-convergence objective ⁽²⁾:

	Amounts of expenditure (in EUR)
Grand total 2007-2015.	
2007	
2008	
2009	
2010	
2011	
2012	
2013	
2014	
2015	

⁽²⁾ By year: the breakdown mentioned in this table shall correspond to the payments paid by the beneficiaries in the year concerned. Where it is not possible to establish this breakdown precisely, the best estimate of the breakdown must be given.

APPLICATION FOR PAYMENT: Payment of balance

Member State:

Operational programme reference (CCI) No:

Pursuant to Article 60 of Regulation (EC) No 1198/2006, I, the undersigned (name in capitals, stamp, position and signature of competent authority), hereby request that you pay the sum of EUR from EFF by way of final payment.

(EUR)

	Convergence objective	Non-convergence objective
EFF		

This application is admissible because:

	Delete as appropriate
(a) the final implementation report for the operational programmed under Article 67 of Regulation (EC) No 1198/2006	<input type="checkbox"/> has been submitted by the managing authority within the time limit laid down <input type="checkbox"/> is attached
(b) a closure declaration referred to in Article 61(1)(f) of Regulation (EC) No 1198/2006.	<input type="checkbox"/> has been submitted by the managing authority within the time limit laid down <input type="checkbox"/> is attached
(c) there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the Treaty, as regards the operation(s) for which the expenditure is declared in the payment application in question	

The payment shall be made by the Commission to the body designated by the Member State for the purposes of making payments:

Designated body	
Bank	
Bank account No	
Holder of account (where not the same as the designated body)	

Date

..	..	20 ..
----	----	-------

Name in capitals, stamp, position and signature
of competent authority:

.....

ANNEX X

**Annual statement on withdrawn and recovered amounts
and pending recoveries under article 46(2)****Withdrawals and recoveries for the year 20.. deducted from statements of expenditure for regions eligible under the convergence objective**

Priority axis	Withdrawals				Recoveries			
	Total expenditure of beneficiaries	Public contribution	Co-financing rate (1)	EFF contribution	Total expenditure of beneficiaries	Public contribution	Co-financing rate (1)	EFF contribution
1								
2								
3								
4								
5								
Total								

(1) This co-financing rate is found in the financial table of the operational programme for the priority axis concerned.

Withdrawals and recoveries for the year 20.. deducted from statements of expenditure for regions eligible under the non-convergence objective

Priority axis	Withdrawals				Recoveries			
	Total expenditure of beneficiaries	Public contribution	Co-financing rate (1)	EFF contribution	Total expenditure of beneficiaries	Public contribution	Co-financing rate (1)	EFF contribution
1								
2								
3								
4								
5								
Total								

(1) This co-financing rate is found in the financial table of the operational programme for the priority axis concerned.

Pending recoveries as at 31.12.20.. for regions eligible under the convergence objective

Priority axis	Year of launch of recovery proceedings	Public contribution to be recovered	Co-financing rate (1)	EFF contribution to be recovered
Priority axis 1	2007			
	2008			
	...			
Priority axis 2	2007			
	2008			
	...			
Priority axis 3	2007			
	2008			
	...			
Priority axis 4	2007			
	2008			
	...			
Subtotals	2007			
	2008			
	...			
Grand total				

(1) This co-financing rate is found in the financial table of the operational programme for the priority axis concerned.

Pending recoveries as at 31.12.20.. for regions eligible under the non-convergence objective

Priority axis	Year of launch of recovery proceedings	Public contribution to be recovered	Co-financing rate (1)	EFF contribution to be recovered
Priority axis 1	2007			
	2008			
	...			
Priority axis 2	2007			
	2008			
	...			
Priority axis 3	2007			
	2008			
	...			
Priority axis 4	2007			
	2008			
	...			
Subtotals	2007			
	2008			
	...			
Grand total				

(1) This co-financing rate is found in the financial table of the operational programme for the priority axis concerned.

ANNEX XI

Model statement of expenditure for a partial closure under article 46(3)**Statement of expenditure by priority axis for a partial closure**

Operational Programme reference (CCI No):

Member State:

Date of submission to the Commission:

Total certified eligible expenditure of operations completed between .../.../ and 31/12 [year] in the regions eligible under the convergence objective:

Priority axis	2007-2015		
	Total expenditure certified	Public contribution	
		EFF contribution	National contribution
Priority axis 1: total			
Priority axis 2: total			
Priority axis 3: total			
Priority axis 4: total			
Priority axis 5: total			
Grand total			

Total certified eligible expenditure of operations completed between .../.../ and 31/12 [year] in the regions eligible under the non-convergence objective:

Priority axis	2007-2015		
	Total expenditure certified	Public contribution	
		EFF contribution	National contribution
Priority axis 1: total			
Priority axis 2: total			
Priority axis 3: total			
Priority axis 4: total			
Priority axis 5: total			
Grand total			

ANNEX XII

Description of management and control systems under article 71 of regulation (EC) No 1198/2006 and article 47 of the present regulation

PART A

Model description of management and control systems

1. GENERAL

1.1. Information submitted by:

- [Name of the] Member State:
- Title of the programme and CCI No:
- Name of main contact person, including e-mail and fax: (body responsible for coordination of descriptions)

1.2. The information provided describes the situation on: (dd/mm/yyyy)

1.3. System structure (general information and flowchart showing the organisational relationship between the bodies involved in the management and control system)

- 1.3.1. Managing authority (Name, address and contact person of the managing authority)
- 1.3.2. Intermediate bodies (Name, address and contact person of the intermediate bodies)
- 1.3.3. Certifying authority (Name, address and contact person of the certifying authority)
- 1.3.4. The audit authority and bodies carrying out audits under the responsibility of the audit authority (Name, address and contact person of the audit authority and other audit bodies)

1.4. Guidance provided to the managing and certifying authorities and intermediate bodies to ensure sound financial management of EFF. (date and reference)

2. MANAGING AUTHORITY

2.1. Managing authority and its main functions

- 2.1.1. The date and form of the formal designation authorising the managing authority to carry out its functions
- 2.1.2. Specification of the functions and tasks carried out directly by the managing authority
- 2.1.3. Functions formally delegated by the managing authority (functions, intermediate bodies, form of delegation)

2.2. Organisation of the managing authority

- 2.2.1. Organisation chart and specifications of the functions of the units (including indicative number of posts allocated)
- 2.2.2. Written procedures prepared for use by staff of the managing authority/intermediate bodies (date and reference)
- 2.2.3. Description of procedures for selecting and approving operations and for ensuring their compliance, for their whole implementing period, with applicable Community and national rules (Article 59(a) of Regulation (EC) No 1198/2006)
- 2.2.4. Verification of operations (Article 59(b) of Regulation (EC) No 1198/2006)
 - Description of the procedures for verification
 - Bodies carrying out such verifications
 - Written procedures (reference to manuals) issued for this work
- 2.2.5. Processing of applications for reimbursement
 - Description of the procedures by which applications for reimbursement are received, verified, and validated, and by which payments to beneficiaries are authorised, executed and accounted for (including flowchart indicating all bodies involved)
 - Bodies carrying out each step in the processing of the application for reimbursement
 - Written procedures (reference to manuals) issued for this work
- 2.2.6. Description of how information will be transmitted to the certifying authority by the managing authority
- 2.2.7. Eligibility rules laid down by the Member State and applicable to the operational programme

2.3. In cases where the managing authority and the certifying authority are both designated in the same body describe how separation of functions is ensured

2.4. Public procurement, State aid, equal opportunities and environment rules

- 2.4.1. Instructions and guidance issued on the applicable rules (date and reference)
- 2.4.2. Measures foreseen to ensure that applicable rules are complied with, for example management checks, controls, audits

2.5. Audit trail

- 2.5.1. Description of how the requirements under Article 41 of Regulation (EC) No 498/2007 will be implemented for the programme and/or for individual priorities
- 2.5.2. Instructions given on retention of supporting documents by beneficiaries (date and reference)
 - Indication of the retention period
 - Format in which the documents are to be held

2.6. Irregularities and recoveries

- 2.6.1. Instructions issued on reporting and correction of irregularities and recording of debt and recoveries of undue payments (date and reference)
- 2.6.2. Description of the procedure (including flowchart) to comply with the obligation to report irregularities in accordance with article 55 of Regulation (EC) No 498/2007

3. INTERMEDIATE BODIES

NB: This section must be completed separately for each intermediate body. Indicate the authority which has delegated the function to the intermediate bodies.

3.1. The intermediate body and its main functions

- 3.1.1. Specification of the main functions/tasks of the intermediate bodies.

3.2. Organisation of each intermediate body

- 3.2.1. Organisation chart and specifications of the functions of the units (including indicative number of posts allocated).
- 3.2.2. Written procedures prepared for use by staff of the intermediate body (date and reference).
- 3.2.3. Description of procedures for selecting and approving operations (if not described under 2.2.3).
- 3.2.4. Verification of operations (Article 59(b) of Regulation (EC) No 1198/2006) (if not described under 2.2.4).
- 3.2.5. Description of procedures for processing of applications for reimbursement (if not described under 2.2.5).

4. CERTIFYING AUTHORITY

4.1. Certifying authority and its main functions

- 4.1.1. The date and form of the formal designation authorising the certifying authority to carry out its functions.
- 4.1.2. Specification of the functions carried out by the certifying authority.
- 4.1.3. Functions formally delegated by the certifying authority (functions, intermediate bodies, form of delegation).

4.2. Organisation of the certifying authority

- 4.2.1. Organisation chart and specification of the functions of the units (including indicative number of posts allocated).
- 4.2.2. Written procedures prepared for use by staff of the certifying authority (date and reference).

4.3. Certification of statements of expenditure

- 4.3.1. Description of the procedure by which statements of expenditure are drawn up, certified and submitted to the Commission.
- 4.3.2. Description of the steps performed by the certifying authority to ensure fulfilment of requirements under Article 60 of Regulation (EC) No 1198/2006.
- 4.3.3. Arrangements for access of the certifying authority to the detailed information on operations and verifications and audits held by the managing authority, intermediate bodies and audit authority.

4. 4. Accounting system

4. 4. 1. Description of the accounting system to be set up and used as a basis for certification of expenditure to the Commission.
 - Arrangements for forwarding aggregated data to the certifying authority in the case of a decentralised system.
 - The link between accounting system and the information system to be set up (point 6).
4. 4. 2. Level of detail of the accounting system.
 - Total expenditure by priority axis.

4. 5. Recoveries

4. 5. 1. Description of the system for ensuring the prompt recovery of Community assistance.
4. 5. 2. Arrangements made to maintain a debtors' ledger and to deduct amounts recovered from expenditure to be declared.

5. AUDIT AUTHORITY AND AUDIT BODIES**5. 1. Description of the main tasks and interrelationships of the audit authority and bodies carrying out audits under the responsibility of the audit authority****5. 2. Organisation of the audit authority and bodies under its responsibility**

5. 2. 1. Organisation charts (including the number of posts attributed).
5. 2. 2. Arrangements for ensuring the independence.
5. 2. 3. Required qualification or experience.
5. 2. 4. Description of procedures for monitoring the implementation of recommendations and corrective measures from audit reports.
5. 2. 5. Description of the procedures (where appropriate) for the supervision of the work of other bodies by the audit authority.

5. 3. Annual control report, annual opinion and closure declaration

Description of the procedures for preparation of the annual control report, annual opinion and closure declaration.

6. INFORMATION SYSTEM (ARTICLE 59(C) OF REGULATION (EC) No 1198/2006)**6. 1. Description of the information system including flowchart (central or common network system or decentralised system with links between the systems)****6. 2. Indication as to whether the system is already operational to gather reliable financial and statistical information on implementation of the 2007-2013 programmes**

– If not, indication of the date when it will be operational.

PART B**Model opinion issued under Article 71(2) of Regulation (EC) No 1198/2006 and under Article 50 of the present Regulation on the compliance of management and control system**

To the European Commission, Directorate-General [...]

Introduction

I, the undersigned representing (name of the audit authority or the operationally independent body designated by the Member State under Article 71(3) of Regulation (EC) No 1198/2006, as the body responsible for drawing up a report setting out the results of an assessment of the management and control systems established for the programme ... (name of operational programme, CCI code number, period) and for giving an opinion on their compliance with Articles 57 to 61 of Regulation (EC) No 1198/2006 have carried out an examination in accordance with Article 50 of Regulation (EC) No 498/2007.

Scope of the examination

The examination was based on the description of the management and control systems received on *dd/mm/yyyy* from (name of body/bodies submitting the description). In addition, we have examined further information concerning (subjects) and interviewed staff of (bodies whose staff was interviewed).

The examination covered the managing, certifying and audit authorities, the body designated to receive the payments made by the Commission and to make the payments to beneficiaries and the following intermediate bodies (*list ...*).

Opinion ⁽¹⁾

Either

(Unqualified opinion)

On the basis of the examination referred to above, it is my opinion that the management and control systems established for the programme ... (name of operational programme, CCI code number, period) comply with the requirements of Articles 57 to 61 of Regulation (EC) No 1198/2006 and Chapter VII of Regulation (EC) No 498/2007.

Or

(Qualified opinion)

On the basis of the examination referred to above, it is my opinion that the management and control systems for the programme ... (name of operational programme, CCI code number, period) comply with the requirements of Articles 57 to 61 of Regulation (EC) No 1198/2006 and Chapter VII of Regulation (EC) No 498/2007, except in the following respects ... ⁽²⁾.

My reasons for considering that this/these aspect(s) of the systems do(es) not comply with the requirements and my assessment of the seriousness is as follows ⁽³⁾:

Or

(Adverse opinion)

On the basis of the examination referred to above, it is my opinion that the management and control systems for the programme (s) ... (name of operational programme, CCI code number, period) do not comply with the requirements of Articles 57 to 61 of Council Regulation (EC) No 1198/2006 and Chapter VII of Regulation (EC) No 498/2007.

This adverse opinion is based on ... ⁽⁴⁾

Date:

Signature:

(1) Where the opinion is issued by the audit authority, the latter must provide a separate 'Declaration of Competence and Operational Independence' on its own functions under Article 65 of Regulation (EC) No 1198/2006.
 (2) Indicate the body or bodies and the aspects of their systems that appear not to comply with the requirements.
 (3) Indicate the reason(s) for the reservations entered for each body and on each aspect.
 (4) Indicate the reason(s) for the adverse opinion for each body and on each aspect.

ANNEX XIII

Forecasts of likely applications for payment

Provisional forecasts of likely payment applications, for the current and subsequent financial year:

(in EUR)

	Community co-financing ⁽¹⁾	
	(current year)	(following year)
OP (CCI number) total		
Convergence objective regions		
Non-convergence objective regions		

(1) Only provisional forecasts of likely applications for payment in respect of the Community contribution, and not total expenditure forecast, shall be stated in the table. In the provisional forecasts of likely applications for payment, the Community contribution must be stated for the year in question, and must not be cumulated from the beginning of the programming period.

ANNEX XIV Annual and final reporting

1. IDENTIFICATION

Member State:

Operational programme	Programme number (CCI No):
Report on implementation	Reporting year:
	Date of approval of the annual report by the monitoring committee:

2. EXECUTIVE SUMMARY

3. OVERVIEW OF THE IMPLEMENTATION OF THE OPERATIONAL PROGRAMME BY PRIORITY AXIS

3.1. Information on the physical progress of the priority axes

For each quantifiable result indicator mentioned in the operational programme related to the objectives and the expected results, (for the year N, for the previous reporting years, as well as cumulatively).

Priority axis

Indicators		2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Indicator 1:	Achievement										
	Target ⁽¹⁾										
	Baseline										
... etc.	... etc.	...	...	...	...	...	...	...	...	...	...
Indicator n:	Achievement										
	Target ⁽¹⁾										
	Baseline										

⁽¹⁾ The target can be given annually or for the whole programming period.

In addition the information may be presented graphically. All indicators shall be broken down by gender where possible. If the figures (data) are not yet available, information on when they will become available and how the Managing Authority will provide it to the Commission shall be stated.

3.2. Specific information for priority axes and measures

- Analysis of the results of in implementing the fishing effort adjustments plans using the indicators defined in the operational programme in the form of table as provided for in point 3.1.
- Fisheries areas selected, groups selected, budget allocated to them, percentage of fisheries areas covered by the local development strategies.

3.3. Financial information (All financial data shall be expressed in Euro)

Regions eligible under the convergence objective

	Expenditure paid by the beneficiaries included in payment claims sent to the managing authority	Corresponding public contribution	Corresponding EFF contribution	Expenditure paid out by the body responsible for making payments to the beneficiaries	EFF committed by the Managing authority	Total payment requested from the Commission Specify the basis for calculating the Community contribution (Article 76(1) or 76(2) of Council Regulation (EC) No 1198/2006)	Total payments received from the Commission
Priority axis 1							
Priority axis 2							
Priority axis 3							
Priority axis 4							
Priority axis 5							
Grand total							

Regions eligible under the non-convergence objective

	Expenditure paid by the beneficiaries included in payment claims sent to the managing authority	Corresponding public contribution	Corresponding EFF contribution	Expenditure paid out by the body responsible for making payments to the beneficiaries	EFF committed by the Managing authority	Total payment requested from the Commission Specify the basis for calculating the Community contribution (Article 76(1) or 76(2) of Council Regulation (EC) No 1198/2006)	Total payments received from the Commission
Priority axis 1							
Priority axis 2							
Priority axis 3							
Priority axis 4							
Priority axis 5							
Grand total							

In addition, financial information may be provided graphically.

3.4. Qualitative analysis

Analysis of the achievements as measured by physical and financial indicators, including qualitative analysis on the progress achieved in relation to the targets set out initially.

Demonstration on the effects of the operational programme on the promotion of equal opportunities between men and women as appropriate and description of the partnership agreements.

List of unfinished operations and the schedule for their completion (final report only).

3.5. Monitoring arrangements

Monitoring and evaluation measures taken by the Managing Authority or the Monitoring Committee, to ensure the quality and effectiveness of implementation, in particular monitoring and evaluation measures, including mid-term and ongoing evaluation activities, data collection arrangements, difficulties encountered and steps taken to solve them.

3.6. Significant problems encountered and measures taken to overcome them. (to be completed only if there was significant modification since the previous report)

Any significant problems encountered in implementing the operational programme and by priority axis to the extent of which any priority axis is affected, including a summary of serious problems identified under the procedure in Article 61(1)(e)(i) of Regulation (EC) No 1198/2006 where appropriate, as well as any measures taken by the managing authority or the monitoring committee to solve the problems.

3.7. Recommendations from the Commission following annual examination of the Operational programme (to be completed only if there was significant modification since the previous report)

Where appropriate, the report must provide the description of how the Member State has implemented the recommendation from the Commission for the previous annual examination of the programme.

If any recommendation has not been implemented, the Managing Authority must provide reasons for not implementing it.

3.8. Assistance repaid or re-used (to be completed only if there was significant modification since the previous report)

Information on the use made of assistance repaid or re-used following cancellation of assistance as referred to in Article 56 and Article 96(2) of the Regulation (EC) No 1198/2006.

3.9. Substantial modification within the meaning of Article 56 of Regulation (EC) No 1198/2006 (to be completed only if there was significant modification since the previous report)

Cases where a substantial modification within the meaning of Article 56 of Regulation (EC) No 1198/2006 has been detected.

3.10. Changes in the context and general conditions to the implementation of the Operational programme (to be completed only if there was significant modification since the previous report)

Description of any elements which, without stemming directly from the assistance of the operational programme, have a direct impact on the programme's implementation (such as legislative changes or unexpected socio-economic developments).

4. THE USE MADE OF TECHNICAL ASSISTANCE (TO BE COMPLETED ONLY IF THERE WAS SIGNIFICANT MODIFICATION SINCE THE PREVIOUS REPORT)

– Explanation of the use made of technical assistance.

– Percentage of the amount of the EFF's contribution allocated to the operational programme spent under technical assistance.

5. INFORMATION AND PUBLICITY (TO BE COMPLETED **ONLY IF THERE WAS SIGNIFICANT MODIFICATION SINCE THE PREVIOUS REPORT**)

- Measures taken to provide information and publicity on the Operational programme, including examples of best practices and highlighting significant events and the arrangements for the information and publicity measures referred to in point (d) of the second paragraph of Article 31 of Regulation (EC) No 498/2007 as well as the electronic address where such data may be found.
- Indicators in the form of tables as provided for in point 3.1.
- Evaluation of the results of the information and publicity measures in terms of visibility and awareness of the operational programme and of the role played by the Community (only in the annual implementation report covering the year 2010 and the final report on implementation).

6. INFORMATION ABOUT COMPLIANCE WITH COMMUNITY LAW

Any significant problems relating to the Compliance with the Community law which have been encountered in the implementation of the operational programme and the measures taken to deal with them.

7. COMPLEMENTARITY WITH OTHER INSTRUMENTS

Summary of the implementation of the arrangements made ensuring demarcation and complementarity between the assistance from the EFF, the Structural Funds, the Cohesion Fund, and other existing financial instruments (Article 6(4) of Regulation (EC) No 1198/2006).

COMMISSION REGULATION (EU) No 1249/2010

of 22 December 2010 amending Regulation (EC) No 498/2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund ⁽¹⁾, and in particular Article 102 thereof,

Whereas:

(1) Article 70(1)(b) of Regulation (EC) No 1198/2006 provides that Member States should be responsible for preventing, detecting, correcting irregularities and recovering amounts unduly paid, notifying these to the Commission and keep the Commission informed of the progress of administrative proceedings.

(2) In the light of the experience gained by the Commission and by the Member States with regard to the application of Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field ⁽²⁾, the procedures for reporting on follow-up to irregularities should be simplified. Furthermore, in order to reduce the administrative burden imposed on Member States it is necessary to determine more precisely which information the Commission requires. To that end, information on irrecoverable amounts and on the aggregated amounts related to reported irregularities should be included in the annual statement to be submitted to the Commission pursuant to Article 46 of Commission Regulation (EC) No 498/2007 ⁽³⁾.

(3) The procedures for reporting on irrecoverable amounts should accurately reflect the obligations of Member States laid down in Article 70 of Regulation (EC) No 1198/2006 and in particular the obligation to ensure an effective pursuit of recoveries. It is also appropriate to simplify the procedures whereby the Commission monitors compliance with those obligations in order to render them more efficient and cost-effective.

(4) As a consequence to Article 60 of Regulation (EC) No 1198/2006, it should be clearly stated that the certifying authority is responsible for keeping complete accounting records, including, in particular, references to amounts reported

as irregular to the Commission in accordance with Article 55 of Regulation (EC) No 498/2007.

(5) In order to ensure an efficient flow of information concerning irregularities and to avoid overlaps of different contact points, it is appropriate to group the provisions on cooperation with Member States in a single Article.

(6) Regulation (EC) No 498/2007 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the European Fisheries Fund Committee,

HAS ADOPTED THIS REGULATION:

Article 1

REGULATION (EC) No 498/2007 IS AMENDED AS FOLLOWS

1. in Article 40, the following paragraph 4 is added:

'4. In the accounting records maintained in accordance with Article 60(f) of the basic Regulation, any amount related to an irregularity reported to the Commission under Article 55 shall be identified by the reference number attributed to that irregularity or by any other adequate method.'

2. Article 46 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) the introductory sentence is replaced by the following:

'By 31 March of each year, the certifying authority shall submit to the Commission a statement in accordance with the model set out in Annex X identifying for each priority axis of the operational programme.'

(ii) point (b) is replaced by the following:

'(b) the amounts recovered which have been deducted from those statements of expenditure submitted during the preceding year.'

(1) OJ L 223, 15.8.2006, p. 1.
(2) OJ L 178, 12.7.1994, p. 43.
(3) OJ L 120, 10.5.2007, p. 1.

(iii) the following point (d) is added:

‘(d) a list of amounts for which it was established during the preceding year that they cannot be recovered or are not expected to be recovered, classified by the year in which the recovery orders were issued.’

(iv) the following subparagraphs are added:

‘For the purposes of points (a), (b) and (c) of the first subparagraph, aggregated amounts related to irregularities reported to the Commission under Article 55 shall be provided for each priority axis.

For the purposes of point (d) of the first subparagraph, any amount related to an irregularity reported to the Commission under Article 55 shall be identified by the reference number of that irregularity or by any other adequate method.’

(b) the following paragraphs 2a and 2b are inserted:

‘2a. For each amount referred to in point (d) of paragraph 2, the certifying authority shall indicate whether it requests the Community share to be borne by the general budget of the European Union.

The Community share shall be borne by the general budget of the European Union, where within one year from the date of the submission of the statement, the Commission does not carry out any of the following:

- (a) request information for the purposes of Article 70(2) of the basic Regulation;
- (b) inform in writing the Member State about its intention to open an enquiry in respect of that amount;
- (c) request the Member State to continue the recovery procedure.

The time limit of one year shall not apply in cases of suspected or established fraud.

2b. For the purposes of the statement referred to in paragraph 2, Member States which have not adopted the euro as their currency by the date when the statement is submitted shall convert amounts in national currency into euro using the exchange rate referred to in Article 95(3) of the basic Regulation. Where the amounts relate to expenditure registered in the accounts of the certifying authority during more than one month, the exchange rate in the month during which expenditure was last registered may be used.’

3. Article 55 is amended as follows:

- (a) in paragraph 1, second subparagraph, points (l) to (o) are replaced by the following:

‘(l) the total eligible expenditure and the public contribution approved for the operation together with the corresponding amount of the Community contribution;

(m) the expenditure and the public contribution certified to the Commission which are affected by the irregularity and the corresponding amount of the Community contribution at risk;

(n) in case of suspected fraud and where no payment of the public contribution has been made to the persons or other entities identified under point (k), the amounts which would have been unduly paid had the irregularity not been identified;

(o) the code of region or area where the operation has been located or carried out, by specifying the NUTS level or otherwise.’

- (b) in paragraph 2, first subparagraph, points (b) and (c) are replaced by the following:

‘(b) cases brought to the attention of the managing or certifying authority by the beneficiary voluntarily and before detection by either of them, whether before or after the inclusion of the expenditure concerned in a certified statement submitted to the Commission;

(c) cases which are detected and corrected by the managing or certifying authority before the inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.’

- (c) paragraph 3 is replaced by the following:

‘3. Where some of the information referred to in paragraph 1, and in particular information concerning the practices employed in committing the irregularity and the manner in which it was discovered, is not available or needs to be rectified, Member States shall as far as possible supply the missing or correct information when submitting subsequent quarterly reports of irregularities to the Commission.’

4. Article 57 is replaced by the following:

‘Article 57

Follow-up reporting

1. In addition to the information referred to in Article 55(1), Member States shall inform the Commission, within two months following the end of each quarter, with a reference back to any previous reports made pursuant to that Article, on details concerning the initiation, conclusion or abandonment of any procedures for imposing administrative or criminal penalties related to the reported irregularities as well as of the outcome of such procedures.

With regard to irregularities for which penalties have been imposed, Member States shall also indicate the following:

- (a) whether the penalties are of administrative or criminal nature;
- (b) whether the penalties result from breach of Community or national law;
- (c) a reference to the provisions in which the penalties are laid down;
- (d) whether fraud was established.

2. At the written request of the Commission, the Member State shall provide information in relation to a specific irregularity or group of irregularities.'

5. Article 60 is amended as follows:

- (a) the heading is replaced by the following:

'Co-operation with Member States'

- (b) paragraph 2 is replaced by the following:

'2. Without prejudice to the contacts referred to in paragraph 1, where the Commission considers that, due to the nature of the irregularity identical or similar practices could occur in other Member States, it shall submit the matter to the advisory Committee for the Coordination of fraud prevention set up by Commission Decision 94/140/EC ⁽⁴⁾.

The Commission shall every year inform that Committee and the committee referred to in Article 101 of the basic Regulation of the order of magnitude of the irregularities affecting the Fund which have been discovered and of the various categories of irregularities, broken down by type and number.'

6. Article 62 is deleted;

7. Article 63 is amended as follows:

- (a) in paragraph 1, the second, third and fourth subparagraphs are deleted;
- (b) paragraph 2 is replaced by the following:

'2. Member States which have not adopted the euro as their currency by the date when the report under Article 55(1) is submitted shall convert amounts in national currency into euro using the exchange rate referred to in Article 95(3) of the basic Regulation.

Where the amounts relate to expenditure registered in the accounts of the certifying authority during more than one month, the exchange rate in the

month during which expenditure was last registered may be used. Where the expenditure has not been registered in the accounts of the certifying authority, the most recent accounting exchange rate published electronically by the Commission shall be used.'

8. Annex X is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 2010

For the Commission

The President

José Manuel BARROSO

(4) OJ L 561, 4.3.1994, p. 27.

ANNEX X

Annual statement on withdrawn and recovered amounts and pending recoveries and irrecoverable amounts under article 46(2)**1. WITHDRAWALS FOR THE YEAR 20.. DEDUCTED FROM STATEMENTS OF EXPENDITURE FOR REGIONS ELEGIBLE:**

Withdrawals (1)						
Under the convergence objective						
a	b	c	d	e	f	g
Priority axis	Total amount in EUR of expenditure paid by beneficiaries withdrawn (2)	Corresponding public contribution withdrawn in EUR	Corresponding EFF contribution withdrawn (3) in EUR	Total amount in EUR of expenditure withdrawn relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (4)	Amount in EUR of corresponding public contribution withdrawn relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007	Amount in EUR of corresponding EFF contribution withdrawn relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (5)
1						
2						
3						
4						
5						
<i>Total</i>						
Under the non-Convergence objective						
a	b	c	d	e	f	g
Priority axis	Total amount in EUR of expenditure paid by beneficiaries withdrawn (2)	Corresponding public contribution withdrawn in EUR	Corresponding EFF contribution withdrawn (3) in EUR	Total amount in EUR of expenditure withdrawn relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (4)	Amount in EUR of corresponding public contribution withdrawn relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007	Amount in EUR of corresponding EFF contribution withdrawn relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (5)
1						
2						
3						
4						
5						
<i>Total</i>						

(1) This table (withdrawals) is completed relating to expenditure already declared to the Commission and which has been withdrawn from the programme following detection of the irregularity. If table 1 is completed, tables 2, 3 and 4 of this annex will not need to be completed.

(2) This amount is the total amount of expenditure already declared to the Commission which was affected by irregularities and which has been withdrawn.

(3) This amount is the EFF part of expenditure already declared to the Commission which was affected by irregularities and which has been withdrawn.

(4) This amount is the part of the amount in column (b) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

(5) This amount is part of the amount in column (d) which has been reported as irregular under the reporting procedures laid down in Article 55 Regulation (EC) No 498/2007.

2. RECOVERIES FOR THE YEAR 20.. DEDUCTED FROM STATEMENTS OF EXPENDITURE FOR REGIONS ELEGIBLE:

Recoveries (1)						
Under the convergence objective						
h	i	j	k	l	m	n
Priority axis	Total amount in EUR of expenditure paid by beneficiaries (2)	Public contribution recovered (3) in EUR	Corresponding EFF contribution recovered (4) in EUR	Total amount in EUR of expenditure recovered relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (5)	Amount in EUR of public contribution recovered relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (6)	Amount in EUR of corresponding EFF expenditure recovered relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 (7)
1						
2						
3						
4						
5						
<i>Total</i>						
Under the non-Convergence objective						
h	i	j	k	l	m	n
Priority axis	Total amount in EUR of expenditure paid by beneficiaries (2)	Public contribution recovered (3) in EUR	Corresponding EFF contribution recovered (4) in EUR	Total amount in EUR of expenditure recovered relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (5)	Amount in EUR of public contribution recovered relating to irregularities reported under Article 55(1) of Regulation (EC) No 498/2007 (6)	Amount in EUR of corresponding EFF expenditure recovered relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 (7)
1						
2						
3						
4						
5						
<i>Total</i>						

(1) This table (recoveries) is completed relating to expenditure which was left for the time being in the programme pending outcome of recovery proceedings and which has been deducted following recovery. If table 2 is completed, tables 1, 3 and 4 of this annex will not need to be completed.

(2) This is the total amount of expenditure already declared to the Commission which was affected by irregularities and in respect of which the corresponding public contribution has been recovered.

(3) This is the amount of public contribution effectively recovered from the beneficiary.

(4) This amount is the corresponding EFF part of expenditure already declared to the Commission which was affected by irregularities and which has been recovered.

(5) This amount relates to the part of the amount in column (i) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

(6) This amount is the part of the amount in column (j) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

(7) This amount is part of the amount in column (k) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

3. PENDING RECOVERIES AS AT 31.12.20..

Convergence							
a	b	c	d	e	f	g	h
Priority axis	Year of launch of recovery proceedings	Total amount in EUR of eligible expenditure paid by beneficiaries ⁽¹⁾	Public contribution to be recovered ⁽²⁾ in EUR	Corresponding EFF contribution to be recovered ⁽³⁾ in EUR	Total amount in EUR of expenditure relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 ⁽⁴⁾	Amount in EUR of public contribution to be recovered relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 ⁽⁵⁾	Amount in EUR of corresponding EFF expenditure to be recovered relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 ⁽⁶⁾
1	2007						
	2008						
	...						
2	2007						
	2008						
	...						
3	2007						
	2008						
<i>Total</i>							

Non-convergence							
a	b	c	d	e	f	g	h
Priority axis	Year of launch of recovery proceedings	Total amount in EUR of eligible expenditure paid by beneficiaries ⁽¹⁾	Public contribution to be recovered ⁽²⁾ in EUR	Corresponding EFF contribution to be recovered ⁽³⁾ in EUR	Total amount in EUR of expenditure relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 ⁽⁴⁾	Amount in EUR of public contribution to be recovered relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 ⁽⁵⁾	Amount in EUR of corresponding EFF expenditure to be recovered relating to irregularities reported under Article 55(1) of Regulation(EC) No 498/2007 ⁽⁶⁾
1	2007						
	2008						
	...						
2	2007						
	2008						
	...						
3	2007						
	2008						
<i>Total</i>							

(1) This is the amount of expenditure paid by the beneficiary corresponding to the public contribution in column (d).

(2) This is the public contribution subject to recovery proceedings at the level of the beneficiary.

(3) This is the EFF contribution subject to recovery proceedings at the level of the beneficiary.

(4) This amount relates to the part of the amount in column (c) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

(5) This amount relates to the part of the amount in column (d) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

(6) This amount relates to the part of the amount in column (e) which has been reported as irregular under the reporting procedures laid down in Article 55 of Regulation (EC) No 498/2007.

European Commission

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