



COMMISSION OF THE EUROPEAN COMMUNITIES

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Amended Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

**on mutual administrative assistance for the protection of the financial interests of the
European Community against fraud and any other illegal activities**

(presented by the Commission pursuant to Article 250 (2) of the EC Treaty)

EXPLANATORY MEMORANDUM

1. BACKGROUND

- (1) On 20 July 2004, the Commission adopted a proposal for a Regulation of the European Parliament and of the Council on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities¹.
- (2) The European Parliament gave its opinion at a first reading on 25 May 2005².
- (3) The European Court of Auditors gave its opinion on 27 October 2005³.

2. OBJECTIVE OF THE AMENDED PROPOSAL

The fight against fraud affecting the Community financial interests is shared competence of the Community the Member States. In particular complex transnational fraud schemes in the areas of VAT fraud, laundering of the proceeds of EC fraud and structural funds fraud the criminal activity is carried out by organised crime taking advantage of the freedoms provided by the European integration. This initiative aims at creating a framework for general administrative mutual assistance necessary to strengthen the protection of the financial interests of the Community. For this purpose the Member states and the Commission shall cooperate, coordinate and assist each other and exchange information to allow swift investigations and appropriate action.

This altered proposal incorporates amendments made by the European Parliament and suggestions made by Member States which reacted to the proposal. The opinion of the Court of Auditors has also been duly considered but did not lead to any specific changes to the text of the proposal. The opinion given by the European Data Protection Supervisor⁴ did not suggest any changes related to data protection issues.

Under this regulation the Commission does not obtain any investigative powers of its own but puts its assistance (service platform) at the disposal of the Member States.

The proposal neither aims at exercising control over the Member States' services as regards their specific operational competencies nor at introducing general reporting obligations beyond the exchange of information on cases of particular relevance at Community level. The precise forms and methods for use of the operational OLAF service platform in the fight against fraud to the detriment of the financial interests of the European Community are at the discretion of the Member States (cf. new Article 5). However, this proposal provides an unequivocal legal basis for the use of the OLAF service platform to support cooperation with other participating Member States' services. The role of the Commission as regards its operational and intelligence support is that of a facilitator, i.e. as a service platform for the Member States services.

¹ OJ 290, 27.11.2004, p. 5; COM(2004) 509.

² Bull. 7.8.2004, point 1.6.26.

³ OJ C 313, 9.12.2005, p. 1.

⁴ OJ C 301, 7.12.2004, p. 4.

3. MODIFICATIONS FOLLOWING OPINION ON THE AMENDMENTS ADOPTED BY THE EUROPEAN PARLIAMENT

On 23 May 2005, the European Parliament adopted 12 amendments. The Commission considers that a large number of the European Parliament's amendments are acceptable in full, in principle or in part, as they improve its proposal and maintain the aims and political viability of the proposal. Moreover, the Commission also takes into consideration the results of the negotiations of the proposal in the Council Anti-Fraud working group as well as the opinion of the European Court of Auditors which was consulted on the basis of Article 280 (4) of the EC Treaty.

The modifications of the proposal aim at the following objectives:

- (1) re-assuring Member States' that the proposal does not confer any new investigative powers to the Commission;
- (2) Specifying Member States' discretion as to the forms and methods of cooperation;
- (3) Pointing out the Commission's role as a Service platform in contrast to its investigative tasks;
- (4) Clarifying the scope of mutual administrative assistance under the proposal as regards indirect as well as direct Community expenditure;
- (5) Further clarifying the delineation with respect to criminal law and other instruments of administrative cooperation (Regulation EC 1798/2003);
- (6) Highlighting the coordination function of central liaison offices at national level (cf. the deletion of the reference to the competent excise authorities);
- (7) Emphasising more strongly the added operational value which the Commission (OLAF) can contribute;
- (8) Pointing out the elements of a Service platform for Member States with regard to spontaneous assistance and risk analysis activity by the Commission;
- (9) Deleting the provisions on "Special watch" which provided surveillance following suspected irregularities, either on request or not;
- (10) Circumscribing the scope of this regulation and a coordination role for the Commission in relation to third countries;
- (11) Clarifying to which extent Member States may have flexibility in implementing the obligations under this regulation;
- (12) Combining the designation of competent authorities by Member States with the establishment of a list of those authorities by the Commission;
- (13) Strengthening the possibility of recovering unlawfully obtained gains and the obligation to provide related information;
- (14) Introducing effective proportionate and dissuasive provisions concerning recovery;

- (15) Evacuating Member States' apprehensions that their services might be obliged to undertake activities which they are not entitled to perform under national law (deletion of the instrument of special watch from the modified proposal, i.e. it is at Member States' discretion whether or not to make use of this particular instrument);
- (16) Emphasising that information on suspicious transactions which is gathered by the Member States' Financial Intelligence Units following the reporting mechanisms established under the money laundering directives is not to be used under this proposed regulation for the purpose of prosecuting money laundering but rather to collect elements of fact for an intelligence indicator to point to the possible existence of EC fraud which may require the initiation of mutual administrative assistance activity.
- (17) Confirming an exception for the obligation to cooperate for reasons of public order (cf. new Article 22).

COMMISSION OPINION ON THE AMENDMENTS ADOPTED BY THE EUROPEAN PARLIAMENT

More specifically the Commission is taking the following position on each amendment:

Amendment no. 1 concerning a reference to the opinion of the EDPS⁵ in has been accepted with a slight modification.

The introductory references "having regard" only refer to primary law provisions on the legislative procedure. As far as the recitals are concerned, reference to data protection rules in Article 286 EC Treaty and regulation 45/2001 is already made.

Recital No. 13, is amended in the following way:

*(...) Due consideration has been given to the opinion of the European Data Protection Supervisor in drafting this Regulation*⁶.

Amendment no. 2 has been incorporated in Article 3 (1) as an additional clarification with a modified wording.

The Commission's and the Member States' task of protecting the Community's financial interests is not limited to the Community territory:

"1. (...)

(a) irregularity means fraud (...), including irregularities committed partially or entirely in third countries."

Amendment no. 3 concerning Article 3 (1)(a)(i) has been accepted with a slight modification as it is a helpful clarification.

The wording has been reviewed replacing "financing" by "expenditure" as it is not about own resources but Community expenditure:

⁵ OJ C 301, 7.12.2004, p. 4.

⁶ OJ C 301, 7.12.2004, p. 4.

“infringements relating to areas of revenue as well as expenditure, whether managed on a centralised basis by the institutions, by shared, decentralised or joint management, (...)”

Amendment no. 4 concerning Article 3 (1)(b)(i) has been accepted with a modification as it would provide for a basis for mutual administrative assistance in the field of direct expenditure also in cases without a transnational context which is currently an important missing element in the legislative framework. This would therefore be a modification to the proposal and not a mere clarification.

The Commission adapted the text with the following wording:

(i)(a) which – in the case of infringements relating to areas of revenue or infringements referred to in subparagraph (a)(ii) of this article and without prejudice to infringements covered by subparagraph (a)(iii) of this article – have or might have ramifications in other Member States, or where there are tangible links with operations carried out in other Member States; and

Amendment no. 5 concerning Article 3, (1)(b)(ii) has been accepted.

(b) “irregularities (...) of particular relevance at Community level” means irregularities:

(i) which, regardless of whether or not they have been discovered in a single or in several operations linked to each other, are estimated (...)”

Amendment no. 6 concerning Article 4 has been accepted with a modified wording with a scope limited to transnational VAT fraud and limited to competent officials in order to maintain coherence with the provisions of Regulation 1798/2003 and has led to the introduction of Art. 4 (4).

“In the field of irregularities under Article 3 (1)(a)(ii) the Commission and the designated competent officials under Regulation (EC) No 1798/2003 may contact, cooperate or exchange information with each other.

Where a competent official or a competent authority other than those listed in Regulation (EC) N° 1798/2003 or a central liaison office receives or sends a request or a reply to a request for assistance under this regulation, it shall inform the central liaison office of its Member State.”

Amendment no. 7 has been incorporated in a modified way in Article 4 (3).

A comprehensive register of the competent authorities under the proposed regulation would be of great added value. However, such a register cannot be established by the Commission on its own but only in cooperation with the Member States which should provide the Commission with the necessary information. It allows Member States to raise the awareness of the authorities concerned in full transparency. The practical use of its publication on the internet is not evident. Regular updating is necessary and requires Member States to provide the necessary information.

“Member States shall provide the Commission with information concerning their competent authorities for the purposes of this Regulation. They shall notify the Commission of any changes to those authorities. On the basis of the information provided, the Commission shall publish a register for use by the Member States' authorities as well as the Commission. The Commission shall regularly update this register.”

Amendment no. 8 concerning Article 11 has not been accepted.

The amendment proposed by the European Parliament concerning information duties of the Member States to the Commission on the basis of this proposal relating to supplies of goods under the VAT information exchange system under regulation 1798/2003 would go beyond the framework established by the latter regulation.

Amendment no. 9 concerning Article 18 has been accepted with a modified wording.

As the Commission (OLAF) is best placed to coordinate cooperation with third countries this amendment is incorporated into the proposal with a modified wording. The coordinating role can only be attributed to the Commission as such and not to OLAF on the basis of a Regulation adopted by the EP and the Council as this would interfere otherwise with the organisational autonomy of the Commission.

“Information obtained by a Member State or the Commission from a third country and falling within the scope of this Regulation shall be communicated to the competent authorities of a Member State and to the Commission if it might enable them to prevent or counter irregularities. As regards the exchange of such information the Commission shall have a coordinating role.”

Amendment no. 10 concerning the introduction of a new article on amending existing legal obligations has not been accepted.

The proposed regulation shall not affect regulation 1798/2003 and does not cover criminal law. Therefore, the proposed regulation cannot refer to “amendments to Regulation (EC) No 1798/2003 and Decision 2000/642/JHA.

Amendment no. 11 concerning the introduction of a new provision on recovery has been accepted with a modified wording.

This amendment aims at giving the possibility to make use of the financial information from the anti-money laundering sector in order to facilitate the success of recovery measures further upstream. Hence, it complements – insofar as it is covered by the scope of this proposal - the rules on recovery under Directive CEE 76/308⁷ amended by Directive 2001/44⁸.

The proposed amendments 11 and 12 have to be seen in the context of the resolution of the European Parliament on the protection of the financial interests of the Communities and the fight against fraud (no. 9, 11, 12, 24, 25, 28)⁹. These provisions complete and build upon but do not affect the rules in place in Member States on recovery in the field of Customs duties and agricultural levies and VAT (Directive 76/308 amended by Directive 2001/44. They have to be in line with respective third pillar law and shall not affect fundamental rights, in particular the right to property.

The text of the proposal has been modified in the following way:

“CHAPTER 3

FACILITATION OF RECOVERY

Article 20

Obligation to provide information

1. For the purpose of facilitating the recovery of proceeds resulting from irregularities the requested authority shall collect in accordance with national law from the institutions and persons referred to in Article 2 (1) of Directive 2005/60/EC all relevant financial information facilitating the application of measures referred to in Article 20 of this Regulation. The exchange of information under this Regulation is without prejudice to the rules on cooperation amongst Financial Intelligence Units under Council Decision 2000/642/JHA.

2. The applicant authority shall outline the relevant facts in a statement including the grounds for serious suspicion of an irregularity. When approached by the authorities of their Member State with a view to collecting relevant information, the institutions and persons referred to in Article 2 (1) of Directive 2005/60/EC shall ensure that this information remains confidential.”

⁷ Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties, OJ L 73 , 19 March 1976 p. 18.

⁸ Council Directive 2001/44/EC of 15 June 2001 amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax and certain excise duties, OJ L 175, 28.6.2001, p. 17.

⁹ European Parliament resolution of 7 June 2005 on the protection of the financial interests of the Communities and the fight against fraud (2004/2198(INI)).

Amendment no. 12 concerning the introduction of a new provision on recovery has been accepted with some modifications. Following the definition of serious fraud in the Convention on the protection of the European Communities' financial interests¹⁰ which is being referred to in directive 2005/60 EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing¹¹ Member States shall apply specific measures including appropriate administrative measures against fraud and money laundering such as recovery at least as of an amount exceeding EUR 50 000.

The text of the proposal has been modified in the following way:

“Article 21

Means of recovery

1. In order to ensure effective recovery, Member States shall, upon request made by the competent authorities, take the necessary measures to freeze, seize and confiscate, in accordance with national law, any unlawfully obtained proceeds arising from irregularities. This provision shall apply to the proceeds, involving sums of more than EUR 50 000, of any irregularity or of property, as referred to in Article 1 (2) of Directive 2005/60/EC, the value of which corresponds to such proceeds.

2. The measures referred to in paragraph 1 may be imposed on a natural or a legal person who has committed or is suspected of having committed the irregularity, or who has contributed to or is suspected of having contributed to committing the irregularity. These measures may also be applied to a natural or a legal person who benefits from the proceeds of the irregularity.”

4. CONCLUSION

Having regard to Article 250 (2) of the EC treaty, the Commission modifies its proposal as follows:

¹⁰ Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests OJ C 316, 27.11.1995. p. 49.

¹¹ OJ L 309, 25.11.2005, p. 15, cf. articles 3 (5) and 39 (2).

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on mutual administrative assistance for the protection of the financial interests of the European Community against fraud and any other illegal activities

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 280(4) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Court of Auditors²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The Community and the Member States attach great importance to the protection of the financial interests of the Community and to the fight against fraud and any other illegal activities affecting those interests.
- (2) The Community framework on mutual assistance should permit close and regular cooperation between the competent authorities of the Member States as well as between the latter and the Commission, in order to protect the Community's financial interests in all areas of Community financial resources and expenditure.
- (3) The provisions of this Regulation should not affect the conduct of investigations by the European Anti-Fraud Office through the use of investigative powers and in compliance with the safeguards provided for in Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)³. The scope of this Regulation should be limited to certain forms of assistance, exchange of information and coordination which may precede, follow or accompany OLAF's investigative activities. **The Commission should provide support to the Member States' authorities by facilitating their cooperation and exchanges of information and generating intelligence alerts to analyse and prevent risks of fraud and any other irregularities to the detriment of the financial interests of the European Community. The Member States' authorities should be given a certain degree of**

¹ OJ C 290, 27.11.2004, p. 5; COM(2004) 509.

² OJ C 313, 9.12.2005, p. 1.

³ OJ L 136, 31.5.1999, p. 1.

discretion as to the measures to be taken for the protection of the financial interests of the Community depending on what is needed for the effectiveness of Community law in the relevant area.

- (4) The introduction of new Community measures should not be such as to affect the application of national criminal law or of rules on mutual assistance in criminal matters or the national administration of justice.
- (5) **Insofar as the exchange of information on suspicious transactions as referred to in Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing⁴ complemented by Regulation (EC) 1889/2005 of 26 October 2005⁵ on controls of cash entering or leaving the Community may assist in the detection of fraud to the detriment of the financial interests of the Community this rules on mutual administrative assistance under this Regulation should apply.**
- (6) ~~(5)~~The fight against ~~transnational~~ fraud and any other illegal activities affecting the financial interests of the Community demands enhanced coordination at Community level as well as multidisciplinary cooperation with the Member States' authorities in the field of fraud and any other illegal activities, which are in many cases related to structures of organised crime and are detrimental to the Community's financial interests. This Regulation should further **support** ~~permit~~ cooperation between all the competent authorities of the Member States, and between the latter and the Commission.
- (7) **In the fight against value added tax fraud the central liaison offices in the Member States as referred to in Council Regulation No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92⁶ have a coordination role in the cooperation against fraud. In as much as assistance in detecting and preventing irregularities may require direct cooperation with regional and local anti-fraud authorities and officials, all information communicated should be notified in parallel to the central liaison offices.**
- (8) ~~(6)~~The provisions of this Regulation should not affect Community legislation which provides for more specific or extensive cooperation between the Member States and the latter and the Commission, such as Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters⁷, or Regulation (EC)

⁴ **Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309, 25.11.2005, p. 13.**

⁵ **Regulation (EC) 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community, OJ L 309, 25.11.2005, p. 9.**

⁶ **OJ L 264, 15.10.2003, p. 1. Regulation as amended by Regulation (EC) No 885/2004 (OJ L 168, 1.5.2004, p. 1).**

⁷ OJ L 82, 22.3.1997, p. 1. Regulation as amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92⁸

- (9) ~~(7)~~ The exchange of information is a key element in the fight against fraud and any other illegal activities affecting the financial interests of the Community. Information provided by the Member States to the Commission should be used by the Commission to form a comprehensive view on Europe-wide fraud and other illegal activities and to **put this at the disposal of** ~~communicate that view to~~ the Member States.
- (10) ~~(8)~~ Fraud and any other illegal activities affecting the financial interests of the Community, in particular in transnational cases which often involve organised international fraud schemes in two or more Member States, can be prevented and fought most effectively if information of an operational, statistical or general nature is analysed and subjected to risk analysis at Community level, using the intelligence and risk-analysis capacity of the Commission **including OLAF**. ~~in general and OLAF in particular.~~
- (11) ~~(9)~~ The fight against fraud and any other illegal activities affecting the financial interests of the Community also necessitates a coherent follow-up. Information gathered or transferred by the Commission should therefore be admissible as evidence in administrative and judicial proceedings.
- (12) ~~(10)~~ In the interest of successful cooperation between the competent authorities of the Member States and the Commission, the exchange of information should be organised in accordance with the rules of confidentiality where information is subject to professional secrecy, while ensuring that personal data processed pursuant to the new provisions enjoys proper data protection.
- (13) ~~(11)~~ Due consideration should be given to the data protection rules applying to the Community institutions set out in Article 286 of the Treaty 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 data⁹, **and also to as well as the rules** applying to the Member States on the basis 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.¹⁰ **Due consideration has been given to the opinion of the European Data Protection Supervisor in drafting this Regulation**¹¹.
- (14) ~~(12)~~ 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 Commission¹².

⁸ ~~OJ L 264, 15.10.2003, p. 1. Regulation as amended by Regulation (EC) No 885/2004 (OJ L 168, 1.5.2004, p. 1).~~

⁹ OJ L 8, 12.1.2001, p. 1.

¹⁰ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

¹¹ **OJ C 301, 7.12.2004, p. 4.**

¹² OJ L 184, 17.7.1999, p. 23.

- (15) ~~(13)~~ Since the objectives of the action to be taken, namely the fight against fraud and any other illegal activities affecting the financial interests of the Community cannot be sufficiently achieved by the Member States acting alone and can therefore by reason of the scale and effects of the action be better achieved at Community level, i.e. through cooperation of both Member States and the Commission, 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 in order to achieve those objectives.
- (16) ~~(14)~~ This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

HAVE ADOPTED THIS REGULATION:

TITLE I GENERAL PROVISIONS

Article 1 *Subject matter*

This Regulation establishes the legal framework for mutual administrative assistance ~~cooperation~~ **including, in particular, and the** exchange of information between the competent authorities of the Member States and between those authorities and the Commission, in order to ensure equivalent and effective protection of the financial interests of the Community against fraud and any other illegal activities.

Article 2 *Scope*

1. This Regulation shall apply in cases of fraud and any other illegal activities affecting the financial interests of the Community which are of particular relevance at Community level.

The competent authorities of the Member States may also **make use of the instruments of mutual administrative assistance established by this Regulation** ~~exchange information and provide assistance pursuant to this Regulation~~ in other situations where they consider such exchange of information and assistance at Community level to be necessary in countering fraud and any other illegal activities affecting the financial interests of the Community.
2. The provisions of this Regulation shall not apply to the extent that Community legislation provides for more specific cooperation between the Member States and between the latter and the Commission, or provides for broader access to information by the Commission.

In particular, this Regulation shall not affect the application of Regulation (EC) No 515/97. **It shall not affect** and the cooperation between Member States under Regulation (EC) No 1798/2003 **on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92¹³**.

3. This Regulation shall not affect the application of Regulation (EC) No 1073/1999.
4. This Regulation shall not affect the application of national criminal law or of rules on mutual assistance in criminal matters or the national administration of justice.
5. The obligation to give assistance provided for in this Regulation shall not cover the provision of information or documents obtained by the competent administrative authorities acting with the authorisation or at the request of the judicial authority.

However, in the event of requests for assistance, such information or documents shall be provided if the judicial authority which is to be consulted on the matter gives its consent.

Article 3 *Definitions*

- 1.** For the purposes of this Regulation the following definitions shall apply:

(a) “irregularity” means fraud and any other illegal activities with particular relevance at Community level, affecting the financial interests of the Community, **including irregularities committed partially or entirely in third countries**, and in particular:

(i)(a) infringements relating to areas of revenue as well as expenditure, whether managed on a centralised basis by the institutions, by shared, decentralised or joint management, including any infringement of a provision of Community law resulting from an act or omission by an economic operator, and breaches of contracts arising under provisions of Community law ~~any infringement of a provision of Community law resulting from an act or omission by an economic operator, including breaches of contracts arising under provisions of Community law, which has, or would have, the effect of prejudicing the general budget of the Community or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Community, or by an unjustified item of expenditure;~~

(ii)(b) any infringement of legislation relating to value added tax (VAT) as referred to in Council Directive 77/388/EEC¹⁴, which has or would have the effect of diminishing the Communities’ own resources as referred to in Council Regulation (EEC, Euratom) No 1553/89¹⁵;

¹³ **OJ L, 264, 15.10.2003, p. 1.**

¹⁴ OJ L 145, 13.6.1977, p. 1.

¹⁵ OJ L 155, 7.6.1989, p. 9.

~~(iii)(e)~~ money laundering within the meaning of Article 1 of Council Directive 2005/60/EC of the European Parliament and of the Council¹⁶ in relation to the proceeds of an infringement as referred to in points (i) and (ii) of this point which constitutes fraud or corruption to the detriment of the financial interests of the Community, complemented by Regulation (EC) 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community¹⁷; ~~money laundering, within the meaning of Article 1(e) of Council Directive 91/308/EEC¹⁸, in relation to the proceeds of an infringement as referred to in paragraphs (a) and (b).~~

(b)2- “irregularities of particular relevance at Community level” means irregularities:

(i)(a) which - in the case of infringements relating to areas of revenue or infringements referred to in subparagraph (a)(ii) of this article and without prejudice to infringements covered by subparagraph (a)(iii) of this article - have or might have ramifications in other Member States, or where there are tangible links with operations carried out in other Member States; and

(ii)(b)—which, regardless of whether or not they have been discovered in a single or in several operations linked to each other, are estimated to cause overall fiscal damage in the Member States concerned in excess of EUR 500 000 in the area of VAT, or to cause damage to the Community’s financial interests of EUR 100 000 or more in the other cases covered by this Regulation; in the case of money laundering the threshold shall apply to the predicate infringement ~~applies to the predicate offence~~;

(c)3- “legislation relating to VAT” means all the Community provisions governing value added tax and the laws and regulations adopted by the Member States in order to comply with these Community provisions;

(d)4- “applicant authority” means a competent authority which makes a request for assistance;

(e)5- “requested authority” means a competent authority to which a request for assistance is made;

(f) “central liaison office” means the office which has been designated pursuant to Article 3(2) of Regulation (EC) No 1798/2003 with principal responsibility for contacts with other Member States in the field of administrative cooperation; has

(g) “liaison department”, means any office other than the central liaison office with a specific territorial competence or a specialised operational

¹⁶ OJ L 309, 26.6.2005, p. 13.

¹⁷ Regulation (EC) 1889/2005 of the European Parliament and the Council on controls of cash entering or leaving the Community, OJ L 309, 25.11.2005, p. 9.

¹⁸ OJ L 166, 28.6.1991, p. 77.

responsibility which has been designated by the competent authority pursuant to Article 3(3) of Regulation (EC) No 1798/2003 to exchange directly information on the basis of that Regulation;

(h) “competent official”, means any official designated pursuant to Article 3(4) of Regulation (EC) No 1798/2003 who can directly exchange information on the basis of that Regulation ;

(i)6. “administrative enquiries” means all controls, checks and other action undertaken by the competent authorities in the performance of their duties with a view to establishing whether irregularities have been committed, excluding action taken at the request of, or under a direct mandate from, a judicial authority;

(i)7. “financial information” means information on suspicious transactions received by the competent national contact points pursuant to Directive **2005/60/EC** ~~91/308/EEC~~ and other information that is appropriate for tracing the financial transactions linked to irregularities covered by this Regulation;

(k)8. “competent authorities” means the national or Community authorities referred to in Article 4(1).

2. The thresholds set out in ~~point (2)(b)~~ **paragraph 1(b)(i)** of this Article may be increased in accordance with the procedure referred to in Article **24**(2).

Article 4

Competent authorities

1. Cooperation under this Regulation shall include the following competent authorities, acting within the scope of their respective powers:

(a) the Member States’ authorities which are :

(i) directly responsible for the management of financial funds originating from the Community budget and designated as such by relevant Community law and national law provisions; or

(ii) responsible under the applicable national provisions of administrative law for the prevention of and the fight against fraud and any other illegal activities affecting the financial interests of the Community; or

- (iii) the competent authorities listed in Regulation (EC) No 1798/2003, the respective central liaison offices and liaison departments designated pursuant to that Regulation, other investigation authorities competent to investigate VAT fraud ~~or the competent authorities referred to in Council Directive 92/12/EEC⁴⁹ insofar as information gathered may afford evidence of VAT fraud~~; or
- (iv) set up as “financial intelligence units” by the Member States pursuant to ~~Council Decision 2000/642/JHA~~ **Article 21 of Directive 2005/60/EC** to collect and analyse information received.
- (b) the Commission, including the European Anti-Fraud Office (OLAF).
2. Member States shall take the necessary measures to ensure the exchange of information between their competent authorities, regardless of their competencies and internal status, and between the latter and the Commission.
- 3. Member States shall provide the Commission with information concerning their competent authorities for the purposes of this Regulation. They shall notify the Commission of any changes to those authorities. On the basis of the information provided, the Commission shall publish a register for use by the Member States' authorities as well as the Commission. The Commission shall regularly update this register.**
- 4. In the field of irregularities under Article 3 (1)(a)(ii) the Commission and the designated competent officials under Regulation (EC) No 1798/2003 may contact, cooperate or exchange information with each other.**
- Where a competent official or a competent authority other than those listed in Regulation (EC) N° 1798/2003 or a central liaison office receives or sends a request or a reply to a request for assistance under this regulation, it shall inform the central liaison office of its Member State.**

⁴⁹ — OJ L 76, 23.3.1992, p. 1.

TITLE II COOPERATION DUTIES

CHAPTER 1 MUTUAL ADMINISTRATIVE ASSISTANCE AND EXCHANGE OF INFORMATION

Section 1

Article 5 Forms and methods of cooperation

Member States may exercise discretion as to the most appropriate forms and methods of cooperation. However, they shall provide such information and assistance as necessary to ensure the effective proportionate and dissuasive protection of the financial interests of the Community.

Section 2 Instruments of assistance on request

Article 65 Assistance on request

1. The competent authorities shall assist each other on request to prevent and detect irregularities. At the request of the applicant authority, the requested authority shall, as far as is required to satisfy the purposes of the request and in accordance with *the* objectives of this Regulation, transmit to the applicant authority all information of relevance for the prevention and detection of irregularities. The information to be transmitted shall include information on the operations constituting the irregularity as well as financial information, both on the underlying operations and on the natural or legal persons involved.
- 2. Requests for assistance and information exchange shall be accompanied by a brief statement of the facts known by the applicant authority.**
- ~~3.2.~~ In order to obtain the information sought, the requested authority or the administrative authority to which it has recourse shall proceed as though acting on its own account or at the request of another authority in its own Member State.
- ~~4.3.~~ The requested authority shall make available any information in its possession or obtained by it concerning operations or transactions, detected or planned, which constitute or which appear to the applicant authority to constitute irregularities, ~~or, where applicable, concerning findings of a special watch carried out pursuant to Article 6.~~

It shall supply the applicant authority with any attestation, document or certified true copy of a document in its possession or obtained by it. However, original documents and items shall be provided only where this is not contrary to the legislation in force in the Member State in which the requested authority is based.

- ~~4. Requests for assistance and information exchange shall be accompanied by a brief statement of the facts known by the applicant authority.~~
5. If the applicant authority addresses its request to an authority which is not competent for the assistance requested that authority shall forward the request immediately to the a competent authority, **the central liaison office or the liaison department and shall inform the applicant authority accordingly.**

~~Article 6~~ ~~Special watch~~

~~At the request of the applicant authority, the requested authority shall as far as possible keep a special watch or arrange for a special watch to be kept within its operational area:~~

- ~~(a) on persons, and more particularly their movements, where there are reasonable grounds for believing that they are committing irregularities;~~
- ~~(b) on places where goods are stored in a way that gives grounds to suspect that they are intended to supply operations which constitute irregularities;~~
- ~~(c) on the movements of goods indicated as being the object of potential irregularities;~~
- ~~(d) on means of transport and financial transactions, where there are reasonable grounds for believing that they are being used to commit irregularities.~~

Article 7 *Administrative enquiries on request*

1. At the request of the applicant authority the requested authority shall carry out administrative enquiries concerning operations which constitute or which appear to the applicant authority to constitute an irregularity, or shall arrange to have such enquiries carried out.

The requested authority or the administrative authority to which it has recourse shall conduct these administrative enquiries as though acting on its own account or at the request of another authority in its own Member State. It shall communicate the results of the enquiry to the applicant authority.

2. By agreement between the applicant authority and the requested authority, officials appointed by the applicant authority may be present at the administrative enquiries referred to in paragraph 1. The enquiries shall at all times be carried out by officials of the requested authority.

Officials of the applicant authority may not, on their own initiative, assume powers of inspection conferred on officials of the requested authority; however, they shall have access to the same premises and the same documents as the latter, through officials of the requested Member State as intermediaries and for the sole purpose of the administrative enquiries being carried out.

3. In so far as national provisions on criminal proceedings reserve certain acts for officials specifically designated by national law, the officials of the applicant authority shall not take part in such acts. In no circumstances shall they participate in searches of premises or the formal questioning of persons under criminal law.

Article 8

Activity of officials in another Member State or on mission in a Member State

By agreement between the applicant authority and the requested authority and in accordance with the arrangements laid down by the latter, officials duly authorised by the applicant authority may be permitted to obtain information on irregularities, from the offices where the administrative authorities of the Member State in which the requested authority is based exercise their functions.

The information concerned must be needed by the applicant authority and be derived from documentation to which the officials of those offices have access.

The officials of the applicant authority shall be authorised to take copies of that documentation.

Article 9

Written authority of officials

Officials of the applicant authority who are present in another Member State or on mission in a Member State in accordance with the Articles ~~6~~⁷ and ~~7~~⁸ must at all times be able to produce written authority stating their identity and their official functions.

Article 10

Time limit for providing assistance and information

1. The requested authority shall provide the assistance and information referred to in Articles ~~5~~⁶ and 7 as quickly as possible and not later than six weeks following receipt of the request. However, where the requested authority is already in possession of that information the time-limit shall be four weeks.
2. In particular cases, time limits different from the ones provided for in paragraph 1 may be agreed between the requested and the applicant authorities.
3. Where the requested authority is unable to respond to a request by the deadline, it shall inform the applicant authority forthwith of the reasons for its failure to do so and shall state when it will be able to respond.

Article 11
Data concerning value added tax

- 1.** For the purpose of providing operational and technical assistance and where necessary to help competent authorities of the Member States to detect and investigate irregularities within the meaning of Article 3(1)(a)(ii) the Commission ~~may~~ **shall** be granted access to Member States' records stored in national databases as referred to in Article 22 of Regulation (EC) No 1798/2003.
- 2.** The detailed rules concerning this access, including rules on confidentiality and data protection as well as on the use of information obtained from the Member States' records, shall be laid down in accordance with the procedure referred to in Article ~~22~~**24**(2).
- ~~2. Insofar as it may afford evidence of irregularities within the meaning of point (b) of the first paragraph of Article 3, Member States' authorities shall communicate to the Commission information gathered on the basis of Directive 92/12/EEC.~~

Section 3
Spontaneous Assistance

Article 12
Provision of information concerning operations or transactions

1. The competent authorities of the Member States shall provide the Commission, without prior request, with relevant information in respect of operations or transactions, which constitute or which appear to constitute irregularities.
2. Acting with the help of appropriate technological support, the Commission shall analyse the information provided and shall provide the Member States with the corresponding analytical results, with a view to **providing** technical and operational assistance in the detection and investigation of irregularities. Where the Commission considers that irregularities have taken place in one or more Member States, it shall inform the Member States concerned thereof.
3. **Financial information shall be exchanged spontaneously** between the Member States and the Commission ~~The obligation to exchange financial information spontaneously between the Member States and the Commission shall apply~~ regardless of whether the transaction is carried out in a single operation or in several operations which seem to be linked.
4. Rules on confidentiality and data protection shall be adopted in accordance with the procedure referred to in Article ~~24~~**22**(2).

~~**Article 13**~~
~~**Special watch without request**~~

~~Where they consider it useful for the protection of the financial interests of the Community against irregularities, competent authorities of the Member States shall arrange for a special watch to be kept:~~

- ~~(a) on persons, and more particularly their movements, where there are reasonable grounds for believing that they are committing irregularities;~~
- ~~(b) on places where goods are stored in a way that gives grounds to suspect that they are intended to supply operations which constitute irregularities;~~
- ~~(c) on the movements of goods indicated as being the object of potential irregularities;~~
- ~~(d) on means of transport, where there are reasonable grounds for believing that they are being used to commit irregularities;~~
- ~~(e) on financial transactions, where there are reasonable grounds for believing that they are being used to commit irregularities;~~

~~Article 13~~
Communication of general information

1. The competent authorities of the Member States shall communicate general information to the Commission on new ways, means, methods and practices of committing irregularities as well as on the detection and prevention of irregularities, which might contribute to the fraud-proofing of relevant legislation, as soon as such information is available to them.
2. The Commission shall communicate to the competent authorities in each Member State, as soon as it becomes available, any information that would enable them to prevent irregularities and to enforce relevant legislation.

CHAPTER 2
USE OF INFORMATION

~~Article 14~~
Use as evidence

Findings, certificates, information, documents, certified true copies and any intelligence communicated to a competent authority in the course of assistance provided for in Articles 6, 7, 8 and 13 shall constitute admissible evidence in administrative or judicial proceedings in any Member State, in the same way as if they had been obtained in the Member State where the proceedings take place.

~~Article 15~~
Exchange of information

Information obtained under this Regulation as well as under other Community provisions may be exchanged by the Commission with other competent authorities in accordance with and for the purpose of this Regulation, to the extent to which such exchange is compatible with the Community provisions under which the information has been obtained.

~~Article 16~~¹⁷
Follow-up

The competent authorities of the Member States shall inform the Commission of relevant updates of the information communicated and the administrative enquiries conducted under this Regulation, and especially of the administrative or judicial proceedings instituted, insofar as this is compatible with national criminal law.

~~Article 17~~¹⁸
Confidentiality rules and data protection

1. Information communicated or acquired in any form under this Regulation shall be covered by professional secrecy and protected in the same way as similar information is protected by the national legislation of the Member State that received it and by the corresponding provisions applicable to the Community institutions and bodies.

Such information may not be communicated to persons or authorities other than those within the Community institutions and bodies or in the Member States whose functions require them to know it nor may it be used for purposes other than to ensure effective protection of the financial interests of the Community.

2. The Commission and the Member States shall ensure, when processing personal data pursuant to this Regulation, that the Community and national provisions on the protection of data, in particular those laid down by Directive 95/46/EC and, where applicable, by Regulation (EC) No 45/2001 are complied with.

The European Data Protection Supervisor shall be consulted before adoption of the implementing rules provided for in the second ~~sub~~paragraph of Article ~~11~~, Article ~~12~~(4) and Article ~~23~~²².

~~Article 18~~¹⁹
Relations with third countries

1. Information obtained by a Member State or the Commission from a third country and falling within the scope of this Regulation shall be communicated to the competent authorities of a Member State and to the Commission if it might enable them to prevent or counter irregularities. **As regards the exchange of such information the Commission shall have a coordinating role.**
2. Provided that the third country concerned has given a legal undertaking to provide the assistance required to gather proof of the irregular nature of operations which appear to constitute an irregularity, information obtained under this Regulation may be communicated to that third country as part of a concerted action, subject to the agreement of the competent authorities supplying the information, in accordance with their national provisions on the protection of personal data, with Articles 25 and 26 of Directive 95/46/EC, and where applicable with Article 9 of Regulation (EC) No 45/2001.

Article 19²⁰
Risk analysis by the Commission

In order to facilitate, in particular, the work of the competent authorities in the Member States ~~t~~The Commission may use any information of a general or operational nature communicated by Member States under this Regulation to perform both strategic and tactical risk assessments, with the use of appropriate information technology support, leading to the production of intelligence-based reports and alerts in order to raise the awareness of identified threats and thus enhance the effectiveness of appropriate operational responses by the competent national authorities and the Commission, subject to the limits of the latter's competence.

CHAPTER 3

FACILITATION OF RECOVERY

Article 20
Obligation to provide information

1. For the purpose of facilitating the recovery of proceeds resulting from irregularities the requested authority shall collect in accordance with national law from the institutions and persons referred to in Article 2 (1) of Directive 2005/60/EC all relevant financial information facilitating the application of measures referred to in Article 20 of this Regulation. The exchange of information under this Regulation is without prejudice to the rules on cooperation amongst Financial Intelligence Units under Council Decision 2000/642/JHA²⁰.

2. The applicant authority shall outline the relevant facts in a statement including the grounds for serious suspicion of an irregularity. When approached by the authorities of their Member State with a view to collecting relevant information, the institutions and persons referred to in Article 2 (1) of Directive 2005/60/EC shall ensure that this information remains confidential.

Article 21
Means of recovery

1. In order to ensure effective recovery, Member States shall, upon request made by the competent authorities, take the necessary measures to freeze, seize and confiscate, in accordance with national law, any unlawfully obtained proceeds arising from irregularities. This provision shall apply at least to the proceeds, involving sums of more than EUR 50 000, of any irregularity or to property, as referred to in Article 1 (2) of Directive 2005/60/EC, the value of which corresponds to such proceeds.

²⁰ OJ L 271, 24.10.2000, p. 4.

2. The measures referred to in paragraph 1 may be imposed on a natural or a legal person who has committed or is suspected of having committed the irregularity, or who has contributed to or is suspected of having contributed to committing the irregularity. These measures may also be applied to a natural or a legal person who benefits from the proceeds of the irregularity.

TITLE III FINAL PROVISIONS

Article 22 Public order

1. Cooperation may be withheld if the requested authority considers that execution of the request would be contrary to its sovereignty, security, public policy or other fundamental interests of the Member State in which it is based.

Tax secrecy or banking secrecy shall not constitute a reason for refusing mutual assistance in the sense of this Article.

2. Reasons shall be given for any refusal to give assistance. The requested authority shall inform the Commission as early as possible of any refusal to give assistance and its reasons.

Article 23~~24~~ *Implementing rules*

Detailed implementing rules concerning the mutual assistance and exchange of information provided for in Chapter 1 of Title II shall be adopted in accordance with the procedure referred to in Article ~~22~~**24**(2).

In addition to the matters referred to in the second subparagraph of Article 11 and in Article 12(4) those rules may cover; in particular:

(a) irregularities within the meaning of Article 3 (1)(a)(ii);

(b) irregularities within the meaning of Article 3 (1)(a)(iii);

~~(a) irregularities within the meaning of point (b) of the first paragraph of Article 3;~~

~~(b) irregularities within the meaning of point (c) of the first paragraph of Article 3;~~

(c) irregularities in the structural funds sector.

Article 24~~22~~ *Committee*

1. The Commission shall be assisted by the Committee (hereinafter referred to as “the Committee”) set up under Article 43 of Regulation (EC) No 515/97.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be three months.

3. The Committee shall adopt its rules of procedure.

Article 25~~23~~
Evaluation report

Every three years after the date of entry into force of this Regulation, the Commission shall report to the European Parliament, the Court of Auditors and the Council on the application of this Regulation.

Article 26~~24~~
Entry into force

This Regulation shall enter into force on the twentieth day following that of 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,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): Anti-fraud

Activities: Mutual administrative cooperation and exchange of information

TITLE OF ACTION: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MUTUAL ADMINISTRATIVE ASSISTANCE FOR THE PROTECTION OF THE FINANCIAL INTERESTS OF THE COMMUNITY AGAINST FRAUD AND ANY OTHER ILLEGAL ACTIVITIES

1. BUDGET LINE(S) + HEADING(S)

24.0106 (fight against fraud)

2. OVERALL FIGURES:

2.1. Total allocation for action (Part B): EUR million for commitment: -

2.2. Period of application: From entering into force on.

2.3. Overall multi-annual estimate of expenditure

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)* - **(not applicable see point 5.1.1)**

EUR million *(to three decimal places)*

	Year [n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Commitments							
Payments							

(b) Technical and administrative assistance and support expenditure *(see point 6.1.2)*

Commitments							
Payments							

Subtotal a+b							
Commitments							
Payments							

- (c) Overall financial impact of human resources and other administrative expenditure
(see points 7.2 and 7.3)

Commitments/ payments	1.851	1.851	1.751	1.751	1.751,	1.751	
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(The first two years include each an amount of EUR 100 000 for the development of information systems for internal use of the Commission, see point 7.3)

TOTAL a+b+c							
Commitments	1.851	1.851	1.751	1.751	1.751	1.751	
Payments	1.851	1.851	1.751	1.751	1.751	1.751	

2.4. Compatibility with financial programming and financial perspective

[X] Proposal is compatible with existing financial programming.

2.5. Financial impact on revenue:

[X] Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

3. BUDGET CHARACTERISTICS

Type of expenditure			EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non-comp	Non-diff	NO	NO	NO	5

4. LEGAL BASIS

Article 280(4) of the EC Treaty.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention

5.1.1. Objectives pursued

The initiative for a regulation on the basis of article 280 of the EC Treaty concerns a framework dedicated to administrative mutual assistance necessary to strengthen the protection of the financial interests of the Community.

For the purpose of the protection of the financial interests of the Community the Member States and the Commission shall assist each other and exchange information in particular in the field of money laundering of the proceeds of EC fraud, of fraud on VAT and any other illegal activities detrimental to the Community's financial interests in particular those in the field of structural funds.

Background

Fraud and any other illegal activities affecting the financial interests of the Community warrant a more comprehensive framework for administrative cooperation between Member States authorities and with the Commission. This is reflected by the Commission's firm commitment to the fight against fraud in order to protect the Community's financial interests which is clearly demonstrated in its Communication, adopted on 28 June 2000, on an overall strategic approach for the protection of the Community's financial interests and the fight against fraud¹. This approach underlines the importance of an overall anti-fraud legislative policy by following a horizontal and cross-pillar legislative approach. This legislative policy must be given concrete expression with the drawing up of specific rules, in particular for information exchanges, and close and regular cooperation between the Member States and between the latter and the Commission.

On the basis of this legislative policy the Commission mentions in its working programme for 2003 the preparation of a proposal for a regulation of the European Parliament and of the Council establishing a cooperation mechanism between the competent authorities of the member States and the Commission in order to ensure the protection of the Community's financial interests against illegal activities including matters such as VAT fraud, money laundering and other financial transactions in relation to the proceeds of EC fraud as well as any other illegal activities detrimental to the Community's financial interests in particular concerning fraud concerning structural funds.

The Commission has reiterated in its Communication containing an Action Plan for 2001-2003², the importance of reinforcing cooperation to prevent money laundering of proceeds from fraud and any other illegal activities detrimental to the Community's financial interests and VAT fraud in order to be able to realise an effective action against organised crime, particularly economic and financial crime (including fraud and money laundering). To combat this type of crime, the European Union should take co-ordinated action and have a strategy of cooperation and mutual information between all public partners in addition to existing programmes as Fiscalis in the sector of VAT.

5.1.2. *Measures taken in connection with ex ante evaluation* NOT APPLICABLE

5.1.3. *Measures taken following ex post evaluation* NOT APPLICABLE

¹ Communication from the Commission, Protection of the Communities' financial interests, The fight against fraud - For an overall strategic approach, COM(2000) 358 final. See especially paragraph 1 and 1.2.2 of this communication. The Council (ECOFIN) adopted this communication on 17 July 2000 and the European Parliament, which approved the guidelines. The Parliament approved the guidelines presented in its Resolution of 13 December 2000.

² Adopted by the Commission on 23 May 2001, COM(2001) 254 final. See especially paragraph 2.2.1.

5.2. Action envisaged and budget intervention arrangements

NOT APPLICABLE: see point 5.1.1.

5.3. Methods of implementation

NOT APPLICABLE: see point 5.1.1.

6. FINANCIAL IMPACT

NOT APPLICABLE: SEE POINT 5.1.1.

6.1. Total financial impact on Part B - (over the entire programming period)

(The method of calculating the total amounts set out in the table below must be explained by the breakdown in Table 6.2.)

6.1.1. Financial intervention

Commitments (in EUR million to three decimal places)

Breakdown	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Action 1							
Action 2							
etc.							
TOTAL							

6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)

	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. years]	Total
1) Technical and administrative assistance							
a) Technical assistance							

b) Other technical and administrative assistance: - intra muros: - extra muros: <i>of which for construction and maintenance of computerised management systems</i>							
Subtotal 1							
2) Support expenditure							
a) Studies							
b) Meetings of experts							
c) Information and publications							
Subtotal 2							
TOTAL							

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post		Staff to be assigned to management of the action using existing and additional resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A	2 (1 already occupied)	2 (1 already occupied)	11	<i>Coordination of investigations and intelligence work in the field of fraud in particular on VAT and structural funds and money laundering of proceeds of fraud detrimental to the Community's financial interests.</i>
	B	2 (1 already occupied)	3 (1/2 - 1 already occupied)		
	C	1	1		
Other human resources			4 END	4	Coordination of investigations in the field of VAT, structural funds and money laundering of proceeds of fraud detrimental to the Community's financial interests.
Total		5	10	15	

7.2. Overall financial impact of human resources

Type of human resources	Amount (EUR)	Method of calculation *
Officials	1 188 000	11 x EUR 108 000
Temporary staff		
Other human resources (specify budget line)	173 340	4 (END) x EUR 43 335
Total	1 361 340	

The amounts are total expenditure for twelve months.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount EUR	Method of calculation
Overall allocation (Title A7)		
Overall allocation 24.0106 (fight against fraud)		
A3.010211 Other management expenditure (missions)	117 000	13 (operational and intelligence staff) x missions per year x 1.500 (average costs of Anti-fraud—missions)
	60 000	2 x (each year) a meeting of the Committee (30.000 costs per meeting) ³
A3.0201 Control, studies, analysis and activities specific to the European anti-fraud office	208 000	13 (operational and intelligence staff) x 2 (average No. of investigation coordination meetings) x 8,000 (average costs of such a meeting)
Total per year	385 000	

³ Where multidisciplinary (e.g. Customs and VAT) issues are discussed by the Committee envisaged by this Regulation, the travel costs of two delegates per Member State will be reimbursed by the Commission.

A3.0103 Buildings and related expenditure of policy area	EUR 100 000	Two information systems have to be developed: one for VAT and one for money laundering. The development of each system entails the following costs: system specification: EUR 25 000 development: EUR 35 000 tests: EUR 10 000 user manuals and training: EUR 15 000 installations: EUR 15 000 total (1): EUR 100 000 Total:2 systems: EUR 200 000 cost to be spread over two years
A3 01 60 Documentation and library expenditure	5 000	special library, documentation and purchase of books, subscription to specialised periodicals
Total	1 851 340	

The amounts are total expenditure for twelve months.

¹ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	EUR 1 851 340 (year 1 and 2) EUR 1 751 340 (from year 3)
II.	Duration of action	does not apply
III.	Total cost of action (I x II)	does not apply

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

The Committee shall adopt an implementing regulation following the comitology procedure in order to determine the relevant implementing modalities of mutual assistance and exchange of information in specific areas covered by the proposed regulation.

8.2. Arrangements and schedule for the planned evaluation

Every three years after the date of entry into force of the regulation, the Commission shall report to the European Parliament, the Court of Auditors and the Council on the application of the measures provided for in the regulation.

9. ANTI-FRAUD MEASURES

NOT APPLICABLE.