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I

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REGULATIONS

COUNCIL REGULATION (EC) No 708/2007

of 11 June 2007

concerning use of alien and locally absent species in aquaculture

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 and Article 299(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾

Whereas:

- (1) In accordance with Article 6 of the Treaty, environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities, in particular with a view to promoting sustainable development.
- (2) Aquaculture is a fast-growing sector where innovation and new outlets are being explored. In order to adapt the production to the conditions of the market, it is important for the aquaculture industry to diversify the species reared.
- (3) Aquaculture has benefited economically from the introduction of alien species and translocation of locally absent species in the past (for example rainbow trout, Pacific oyster and salmon) and the policy objective for the future is to optimise benefits associated with introductions and translocations while at the same time avoiding alterations to ecosystems, preventing negative biological interaction, including genetic change, with indigenous populations and restricting the spread of non-target species and detrimental impacts on natural habitats.
- (4) Invasive alien species have been identified as one of the key causes of loss of native species and harm to bio-diversity. Under Article 8(h) of the Convention on Biological Diversity (CBD), to which the Community is a Party, each Contracting Party is required, as far as possible and as appropriate, to prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species. In particular, the Conference of the Parties to the CBD has adopted Decision VI/23 on alien species that threaten ecosystems, habitats or species, the annex to which sets out Guiding Principles for the prevention, introduction and mitigation of impacts of such alien species.
- (5) The translocation of species within their natural range to areas where they are locally absent for specific biogeographical reasons may also present risks for ecosystems in these areas and should also be covered by this Regulation.
- (6) The Community should therefore develop its own framework to ensure adequate protection of aquatic habitats from the risks associated with the use of non-native species in aquaculture. This framework should include procedures for the analysis of the potential risks, the taking of measures based on the prevention and precautionary principles and the adoption of contingency plans where necessary. These procedures should build on experience gained through the existing voluntary frameworks, and notably the International Council for the Exploration of the Sea (ICES) Code of Practice on the Introductions and Transfers of Marine Organisms and the European Inland Fisheries Advisory Commission (EIFAC) Code of Practice and Manual of Procedures for consideration of introduction and transfer of marine and freshwater organisms.

⁽¹⁾ OJ C 324, 30.12.2006, p. 15.

- (7) The measures provided for in this Regulation should be without prejudice to Council Directive 85/337/EEC of 27 June 1985 on environmental impact assessment ⁽¹⁾, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽²⁾, Directive 2000/60/EC of the European Parliament and the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽³⁾ and 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) The potential risks, which may in some cases be far reaching, are initially more evident locally. The characteristics of local aquatic environments throughout the Community are very diverse and Member States have the appropriate knowledge and expertise to evaluate and manage the risks to the aquatic environments falling within their sovereignty or jurisdiction. It is therefore appropriate that the implementation of the measures provided for in this Regulation falls primarily under the responsibility of Member States.
- (9) It should be taken into account that movements of alien or locally absent species to be held in closed aquaculture facilities which are secure and which present a very low risk of escape should not be subject to prior environmental risk assessment.
- (10) However, in cases where risks are not negligible and may affect other Member States there should be a Community system for consultation of interested parties and validation of permits prior to their granting by Member States. The Scientific, Technical and Economic Committee for Fisheries (STECF) established under Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽⁵⁾ should provide the scientific advice in this consultation and the Advisory Committee for Fisheries and Aquaculture set up by Commission Decision 1999/478/EC ⁽⁶⁾ should give the advice of stakeholders in the field of aquaculture and environmental protection.
- (11) Some alien species have commonly been used in aquaculture for a long time in certain parts of the Community. The activities connected therewith should therefore benefit from a differential treatment facilitating their development without any additional administrative burden on condition that the source can provide stock that

is free of non target species. Member States who wish to restrict the use of such long-used species in their territory should be permitted to do so.

- (12) Nothing in this Regulation shall prevent Member States from regulating the keeping of alien or locally absent species in private aquaria and garden ponds through national regulations.
- (13) 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 ⁽⁷⁾.
- (14) For the sake of efficiency, the procedure for the amendments to Annexes I, II, III and IV of this Regulation, necessary to adapt them to technical and scientific progress, should be the management procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation establishes a framework governing aquaculture practices in relation to alien and locally absent species to assess and minimise the possible impact of these and any associated non-target species on aquatic habitats and in this manner contribute to the sustainable development of the sector.

Article 2

Scope

1. This Regulation shall apply to the introduction of alien species and translocation of locally absent species for their use in aquaculture in the Community taking place after the date this Regulation becomes applicable by virtue of Article 25(1).

2. This Regulation shall not apply to translocations of locally absent species within Member States, except for cases where, on the basis of scientific advice, there are grounds for foreseeing environmental threats due to the translocation. In the case that an advisory committee has been appointed under Article 5 it will be responsible for assessing the risks.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽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).

⁽²⁾ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 368).

⁽³⁾ OJ L 327, 22.12.2000, p. 1. Directive as amended by Decision No 2455/2001/EC of the European Parliament and of the Council (OJ L 331, 15.12.2001, p. 1).

⁽⁴⁾ OJ L 328, 24.11.2006, p. 14.

⁽⁵⁾ OJ L 358, 31.12.2002, p. 59.

⁽⁶⁾ OJ L 187, 20.7.1999, p. 70. Decision as amended by Decision 2004/864/EC (OJ L 370, 17.12.2004, p. 91).

3. This Regulation shall cover all aquaculture activities located within the jurisdiction of Member States irrespective of their size or characteristics. It shall cover all alien and locally absent aquatic organisms farmed. It shall cover aquaculture using any form of aquatic medium.

4. This Regulation shall not apply to the keeping of ornamental aquatic animals or plants in pet-shops, garden centres, contained garden ponds or aquaria which comply with Article 6 of Commission Decision 2006/656/EC of 20 September 2006 laying down the animal health conditions and certification requirements for imports of fish for ornamental purpose ⁽¹⁾ or in facilities which are equipped with effluent treatment systems which fulfil the aims set out in Article 1.

5. This Regulation, except for Articles 3 and 4, shall not apply to the species listed in Annex IV. The risk assessment in Article 9 shall not apply to species listed in Annex IV except in cases where Member States wish to take measures to restrict the use of the species concerned in their territory.

6. Movements of alien or locally absent species to be held in closed aquaculture facilities shall not be subject to prior environmental risk assessment except in cases where Member States wish to take appropriate measures.

7. Introductions and translocations for use in 'closed aquaculture facilities' may at a future date be exempted from the permit requirement of Chapter III, based on new scientific information and advice. Advances in the scientific understanding of bio security of modern closed systems are expected inter alia from Community-funded research on alien species. The relative decision will be taken not later than 31 March 2009 following the procedure described under Article 24.

Article 3

Definitions

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

1. 'aquaculture' means the activity defined in Article 3, paragraph (d) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund ⁽²⁾;
2. 'open aquaculture facility' means a facility where aquaculture is conducted in an aquatic medium not separated from the wild aquatic medium by barriers preventing the escape of reared specimens or biological material that might survive and subsequently reproduce;
3. 'closed aquaculture facility' means a facility where aquaculture is conducted in an aquatic medium, which involves recirculation of water and which is separated from the wild aquatic medium by barriers preventing the escape of reared specimens or biological material that might survive and subsequently reproduce;

4. 'aquatic organisms' means any species living in water belonging to the animalia, plantae and protista kingdoms, including any part, gametes, seeds, eggs or propagules of their individuals that might survive and subsequently reproduce;
5. 'Polyploid organisms' means artificially induced tetraploid organisms (4N). These are aquatic organisms in which the number of chromosomes in the cells has been doubled through cell manipulation techniques;
6. 'alien species' means:
 - (a) a species or subspecies of an aquatic organism occurring outside its known natural range and the area of its natural dispersal potential;
 - (b) polyploid organisms, and fertile artificially hybridised species irrespective of their natural range or dispersal potential;
7. 'locally absent species' means a species or subspecies of an aquatic organism which is locally absent from a zone within its natural range of distribution for biogeographical reasons;
8. 'non-target species' means any species or subspecies of an aquatic organism likely to be detrimental to the aquatic environment that is moved accidentally together with an aquatic organism that is being introduced or translocated not including disease-causing organisms which are covered by Directive 2006/88/EC;
9. 'movement' means introduction and/or translocation;
10. 'introduction' means the process by which an alien species is intentionally moved to an environment outside its natural range for use in aquaculture;
11. 'translocation' means the process by which a locally absent species is intentionally moved within its natural range for its use in aquaculture to an area where it previously did not exist because of bio-geographical reasons;
12. 'pilot release' means the introduction of alien species or translocation of locally absent species on a limited scale to assess ecological interaction with native species and habitats in order to test the risk assessment assumptions;
13. 'applicant' means the natural or legal person or entity proposing to conduct the introduction or translocation of an aquatic organism;
14. 'quarantine' means a process by which aquatic organisms and any of their associated organisms can be maintained in complete isolation from the surrounding environment;

⁽¹⁾ OJ L 271, 30.9.2006, p. 71.

⁽²⁾ OJ L 223, 15.8.2006, p. 1.

15. 'quarantine facility' means a facility in which aquatic organisms and any of their associated organisms can be maintained in complete isolation from the surrounding environment;
16. 'routine movement' means the movement of aquatic organisms from a source which has a low risk of transferring non-target species and which, on account of the characteristics of the aquatic organisms and/or the method of aquaculture to be used, for example closed systems as defined in 3, does not give rise to adverse ecological effects;
17. 'non-routine movement' shall mean any movement of aquatic organisms which does not fulfil the criteria for routine movement;
18. 'receiving Member State' shall mean the Member State into the territory of which the alien species is introduced or the locally absent species is translocated;
19. 'sending Member State' means the Member State from the territory of which the alien species is introduced or the locally absent species is translocated.

CHAPTER II

GENERAL OBLIGATIONS OF THE MEMBER STATES

Article 4

Measures for avoiding adverse effects

Member States shall ensure that all appropriate measures are taken to avoid adverse effects to biodiversity, and especially to species, habitats and ecosystem functions which may be expected to arise from the introduction or translocation of aquatic organisms and non-target species in aquaculture and from the spreading of these species into the wild.

Article 5

Decision making and advisory bodies

Member States shall designate the competent authority or authorities responsible for ensuring compliance with the requirements of this Regulation (the competent authority(ies)). Each competent authority may appoint an advisory committee to assist it, which shall include appropriate scientific expertise (the advisory committee). If a Member State does not appoint an advisory committee then the competent authority or competent authorities shall assume the tasks assigned to the advisory committee in this Regulation.

CHAPTER III

PERMITS

Article 6

Application for a permit

1. Aquaculture operators intending to undertake the introduction of an alien species or the translocation of a locally absent

species not covered by Article 2(5) shall apply for a permit from the competent authority of the receiving Member State. Applications may be submitted for multiple movements to take place over a period of not longer than seven years.

2. The applicant shall submit with the application a dossier following the indicative guidelines listed in Annex I. The advisory committee shall give an opinion on whether the application contains all the information required to assess whether the proposed movement is routine or non-routine, and is therefore admissible, and shall inform the competent authority of its opinion.

3. By the end of the permit period an application for another permit may be submitted by referring to the former permit. If there have been no documented adverse effects on the environment, the proposed movement shall be considered a routine movement.

Article 7

Type of proposed movement

The advisory committee shall give its opinion on whether the proposed movement is a routine or a non-routine movement and whether release must be preceded by quarantine or pilot release and shall inform the competent authority of its opinion.

Article 8

Routine movement

In the case of routine movements, the competent authority may grant a permit, indicating, where applicable, the requirement for quarantine or pilot release as set out in Chapters IV and V.

Article 9

Non-routine movement

1. In the case of non-routine movements, an environmental risk assessment shall be carried out as outlined in Annex II. The competent authority shall decide whether the applicant or an independent body is responsible for conducting the environmental risk assessment and who shall bear the cost.

2. On the basis of the environmental risk assessment, the advisory committee shall give its opinion on the risk to the competent authority, using the summary report form set out in Annex II, Part 3. If the advisory committee finds that the risk is low, the competent authority may grant the permit without further formalities.

3. If the advisory committee finds that the risk associated with the proposed movement of aquatic organisms is high or medium in the sense of Annex II, part 1, it shall examine the application in consultation with the applicant to see if there are mitigation procedures or technologies available to reduce the level of risk to low. The advisory committee shall forward the results of its examination to the competent authority, detailing the level of risk and specifying the reasons for any reduction in risk, in the form specified in Annex II, Part 3.

4. The competent authority may only issue permits for non-routine movements in cases where the risk assessment, including any mitigation measures, show a low risk to the environment. Any refusal of a permit must be duly motivated on scientific grounds and, where scientific information is as yet insufficient, on the grounds of the precautionary principle.

Article 10

Decision period

1. The applicant shall be informed in writing within a reasonable time of the decision to issue or refuse a permit, and in any case not later than six months from the date of application, excluding time when an applicant provides additional information if the advisory committee so requests.

2. Member States which are signatories to ICES may request to have applications and risk assessments regarding marine organisms reviewed by ICES prior to the issuing of an opinion by the advisory committee. In such cases an additional period of six months shall be allowed.

Article 11

Movements affecting neighbouring Member States

1. Where the potential or known environmental effects of a proposed movement of an organism are liable to affect neighbouring Member States, the competent authority shall notify the Member State or States concerned and the Commission of its intention to grant a permit by sending a draft decision, accompanied by an explanatory memorandum and a summary of the environmental risk assessment as specified in Annex II, Part 3.

2. Within two months of the date of notification, the other Member States concerned may submit written comments to the Commission.

3. Within six months of the date of notification, the Commission shall, after consulting the Scientific, Technical and Economic Committee for Fisheries (STECF), established under Article 33 of Regulation (EC) No 2371/2002 and the Advisory Committee for Fisheries and Aquaculture, established by Decision 1999/478/EC, confirm, reject or amend the proposed decision to grant a permit.

4. Within 30 days of the date of the Commission's decision, the Member States concerned may refer that decision to the Council. Within a further 30 day period, the Council, acting by qualified majority, may take a different decision.

Article 12

Withdrawal of permit

At any point in time, the Competent Authority can withdraw the permit, temporarily or permanently, if unforeseen events with

negative effects on the environment or on native populations occur. Any withdrawal of a permit must be justified on scientific grounds and, where scientific information is as yet insufficient, on the grounds of the precautionary principle and having due regard to national administrative rules.

CHAPTER IV

CONDITIONS FOR INTRODUCTION AFTER ISSUE OF A PERMIT

Article 13

Compliance with other Community provisions

A permit may only be issued for an introduction under this Regulation, where it is apparent that requirements under other legislation can be met, and in particular:

- (a) the animal health conditions set out in Directive 2006/88/EC on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals;
- (b) the conditions set out in Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾.

Article 14

Release into aquaculture facilities in case of routine introductions

In the case of routine introductions, the release of aquatic organisms into open or closed aquaculture facilities shall be allowed without quarantine or pilot release, unless, in exceptional cases, the competent authority decides otherwise on the basis of specific advice given by the advisory committee. Movements from a closed aquaculture facility to an open aquaculture facility shall not be regarded as routine.

Article 15

Release into open aquaculture facilities in case of non-routine introductions

1. In the case of non-routine introductions, the release of aquatic organisms into open aquaculture facilities shall be subject, if necessary, to the conditions set out in paragraphs 2, 3 and 4.

2. The aquatic organisms shall be placed in a designated quarantine facility within the territory of the Community in accordance with the conditions set out in Annex III, for the purpose of constituting a brood-stock.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

3. The quarantine facility may be located in a Member State other than the receiving Member State, provided that all Member States concerned agree and that this option has been included in the environmental risk assessment under Article 9.

4. If appropriate, only progeny of the introduced aquatic organisms may be used in aquaculture facilities of the receiving Member State, provided that no potentially harmful non-target species are found during quarantine. Adult stock may be released in those cases where the organisms do not reproduce in captivity or are fully reproductively sterile, providing the absence of potentially harmful non target species is confirmed.

Article 16

Pilot release into open aquaculture facilities

The competent authority may require that the release of the aquatic organisms into open aquaculture systems be preceded by an initial pilot release subject to specific containment and to preventive measures based on the advice and recommendations of the advisory committee.

Article 17

Contingency plans

For all non-routine introductions and pilot releases, the applicant shall draw up a contingency plan for the approval of the competent authority, which shall include, *inter alia*, the removal of the introduced species from the environment, or a reduction in density, for unforeseen events with negative effects on the environment or on native populations. If such an event occurs, the contingency plans shall be implemented immediately and the permit can be withdrawn, temporarily or permanently as per Article 12.

Article 18

Monitoring

1. Alien species shall be monitored after their release into open aquaculture facilities for a period of two years or a full generation cycle, whichever is longer, to assess whether the impacts were accurately predicted or if there are additional or different impacts. The level of spread or containment of the species shall be studied in particular. The competent authority shall decide whether the applicant has the adequate expertise or whether another body is to carry out the monitoring.

2. Subject to the opinion of the advisory committee, the competent authority may require longer monitoring periods to assess any possible long-term ecosystem effects not easily detectable in the period laid down in paragraph 1.

3. The advisory committee shall evaluate the results of the monitoring programme and note in particular any event not correctly anticipated in the environmental risk assessment. The results of that evaluation shall be sent to the competent authority

which shall include a summary of the results in the national register established under Article 23.

CHAPTER V

CONDITIONS FOR TRANSLOCATIONS AFTER ISSUE OF A PERMIT

Article 19

Compliance with other Community provisions

A permit may only be issued for a translocation under this Regulation where it is apparent that requirements under other legislation can be met and in particular:

- (a) the animal health conditions set out in Directive 2006/88/EC;
- (b) the conditions set out in Directive 2000/29/EC.

Article 20

Non-routine translocation into open aquaculture facilities

In the case of non-routine translocations into open aquaculture facilities, the competent authority may require that release of aquatic organisms be preceded by an initial pilot release with specific containment and preventive measures based on the advice and recommendations of the advisory committee.

Article 21

Quarantine

The receiving Member State may, in exceptional cases and subject to approval by the Commission, require quarantine in accordance with Article 15(2), (3) and (4) before release of species from non-routine translocations into open aquaculture facilities. The request for approval by the Commission shall indicate the reasons why quarantine is required. The Commission shall reply to such requests within 30 days.

Article 22

Monitoring following translocation

Following a non-routine translocation, the species shall be monitored in accordance with Article 18.

CHAPTER VI

REGISTER

Article 23

Register

Member States shall keep a register of introductions and translocations containing a historical record of all applications made and the associated documentation gathered before the issue of a permit and during the monitoring period.

The register shall be made freely available to the Member States and public in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information ⁽¹⁾.

To allow Member States to share the information contained in their registers, a specific information system may be developed in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.

CHAPTER VII

FINAL PROVISIONS

Article 24

Detailed rules and adaptation to technical progress

1. Amendments to Annexes I, II, III and IV and their corresponding provisions necessary in order to adapt them to technical and scientific progress shall be adopted in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.

2. In order for species to be added to Annex IV, the aquatic organism must have been used in aquaculture for a long time (with reference to its life cycle) in certain parts of the Community with no adverse effects, and introductions and translocations must be able to take place without the coincident movement of potentially harmful non target species.

3. The Commission shall adopt, in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002, the rules implementing the conditions necessary for adding species to Annex IV, as referred in paragraph 2.

4. After the adoption by the Commission of the implementing rules mentioned in paragraph 3, Member States may request the Commission to add species to Annex IV making use of the procedure mentioned in paragraph 1. Member States may provide scientific data to prove coherence with relevant criteria for adding species to Annex IV. The Commission shall decide within five months following receipt of the requests on their suitability excluding time when the Member State provides additional information if the Commission so requests.

5. However, Member States' requests to add species to Annex IV received before the date of entry into force of the Regulation, shall be decided before 1 January 2009.

6. Member States concerned may propose in respect of their outermost regions, as referred to in Article 299(2) of the Treaty establishing the European Community, the addition of species to be included in a separate part of Annex IV.

Article 25

Entry into force

1. This Regulation shall enter into force 20 days following its publication in the *Official Journal of the European Union*.

It shall apply six months after a Commission's Regulation on implementing rules referred to in Article 24(3) enters into force, but not later than 1 January 2009.

2. However, the provisions contained in Chapter I and Chapter II as well as Article 24, shall be applicable as from the date of entry into force of the Regulation.

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

Done at Luxembourg, 11 June 2007.

For the Council

The President

H. SEEHOFFER

⁽¹⁾ OJ L 41, 14.2.2003, p. 26.

ANNEX I

APPLICATION

(Indicative guidelines for the dossier to be completed by applicant as foreseen under Article 6)

Wherever possible, information is to be supported with references from the scientific literature, and notations to personal communications with scientific authorities and fisheries experts. Applicants are advised to distinguish between movements to 'open' or 'closed' aquaculture facilities.

For the purpose of this Annex when an application refers to a proposed translocation, rather than an introduction, the terms introduction/introduced are to be replaced by translocation/translocated.

A. Executive summary

Provide a brief summary of the document including a description of the proposal, the potential impacts on native species and their habitats and mitigation steps to minimise the potential impacts on native species.

B. Introduction

- (1) Name (common and scientific) of the organism proposed for introduction or translocation, indicating the genus, species, subspecies or lower taxonomic classification where applicable.
- (2) Describe the characteristics, including distinguishing characteristics, of the organism. Include a scientific drawing or photograph.
- (3) Describe the history in aquaculture, enhancement or other introductions (if appropriate).
- (4) Describe the objectives and rationale for the proposed introduction, including an explanation as to why such an objective cannot be met through the utilisation of an indigenous species.
- (5) What alternate strategies have been considered in order to meet the objectives of the proposal?
- (6) What is the geographic area of the proposed introduction? Describe the habitats, ecosystem and protection status of the receiving environment. Include a map.
- (7) Describe the numbers of organisms it is proposed to introduce (initially, ultimately). Can the project be broken down into different sub-components? If so, how many organisms are involved in each sub-component?
- (8) Describe the source(s) of the stock (facility) and genetic stock (if known).

C. Life history information of the species to be introduced — for each life history stage

- (1) Describe the native range and range changes due to introductions.
- (2) Does the stock from which the introduction/translocation will be made have a link with any known non-target species?
- (3) What is the distribution of such non-target species within the area of origin of the stock to be introduced/translocated?
- (4) Record where the species was introduced previously and describe the ecological effects on the environment of the receiving area (predator, prey, competitor, and/or structural/functional elements of the habitat).
- (5) What factors limit the species in its native range.
- (6) Describe the physiological tolerances (water quality, temperature, oxygen, and salinity) at each life history stage (early life-history stages, adult and reproductive stages).

- (7) Describe the habitat preferences and tolerances for each life-history stage.
- (8) Describe the reproductive biology.
- (9) Describe the migratory behaviour.
- (10) Describe the food preferences for each life-history stage.
- (11) Describe the growth rate and lifespan (also in the area of the proposed introduction, if known).
- (12) What is the age or age-range of the species concerned?
- (13) Describe the behavioural traits (social, territorial, aggressive).

D. Interaction with native species

- (1) What is the potential for survival and establishment of the introduced organism if it escapes? (This question applies to movements into open and closed aquaculture facilities.)
- (2) What habitat(s) will the introduced species be likely to occupy in the proposed area of introduction and will this overlap with any vulnerable, threatened or endangered species? (Indicate if the proposed area of introduction also includes contiguous waters.)
- (3) With which native species will there be a niche overlap? Are there any unused ecological resources of which the species would take advantage?
- (4) What will the introduced organism eat in the receiving environment?
- (5) Will this predation cause any adverse impacts on the receiving ecosystem?
- (6) Will the introduced organisms survive and successfully reproduce in the proposed area of introduction or will annual stocking be required? (This question applies to species not intended for closed aquaculture facilities.)
- (7) Will the introduced organisms hybridise with native species? Is local extinction of any native species or stocks possible as a result of the proposed introduction? Are there any possible effects of the introduced organisms on the spawning behaviour and spawning grounds of local species?
- (8) Are there any potential impacts on habitat or water quality as a result of the proposed introduction?

E. Receiving environment and contiguous waters

- (1) Provide physical information on the receiving environment and contiguous waterbodies such as seasonal water temperatures, salinity, and turbidity, dissolved oxygen, pH, nutrients and metals. Do those parameters match the tolerances/preferences of the species to be introduced, including conditions needed for reproduction?
- (2) List species composition (major aquatic vertebrates, invertebrates and plants) of the receiving waters.
- (3) Provide information on habitat in the area of introduction, including contiguous waters, and identify critical habitat. Which of those parameters match the tolerances/preferences of the organisms to be introduced? Can the introduced organisms disturb any of the habitats described?
- (4) Describe the natural or man-made barriers that should prevent the movement of the introduced organisms to adjacent waters.

F. Monitoring

Describe the plans for follow-up assessments of the proposed introduced species' success and how any negative impacts on native species and their habitats will be assessed.

G. Management plan

- (1) Describe the management plan for the proposed introduction. This should include, but not be restricted to, the following information:
 - (a) measures taken to ensure that no other species (non-target species) accompany the shipment;
 - (b) who will be permitted to use the proposed organisms and under what terms and conditions;
 - (c) will there be a pre-commercial phase for the proposed introduction?
 - (d) description of the contingency plan for the removal of species;
 - (e) description of the quality assurance plan for the proposal, and,
 - (f) other legislative requirements that need to be met.
- (2) Describe the chemical, biophysical and management measures being taken to prevent accidental escape of the organism and non-target species, to and their establishment in, non-target recipient ecosystems. Give details of the water source, effluent destination, any effluent treatment, proximity to storm sewers, predator control, site security and measures to prevent escapes, if necessary.
- (3) Describe contingency plans in the event of an unintentional, accidental or unauthorised liberation of the organisms from rearing and hatchery facilities or an accidental or unexpected expansion of the range of colonisation after release.
- (4) If this proposal is intended to create a fishery, give details of the fishery objective. Who would benefit from such a fishery? Give details of the management plan and, if appropriate, include changes in the management plans for species which will be impacted.

H. Business data

- (1) Provide the name of the owner and/or company, the aquaculture licence number and the business licence (if applicable) or the name of the government agency or department with a contact name, telephone, fax and e-mail information.
- (2) Provide an indication as to the economic viability of the proposed project.

I. References

- (1) Provide a detailed bibliography of all references cited in the course of preparing the application.
 - (2) Provide a list of names, including addresses, of scientific authorities and fisheries experts consulted.
-

ANNEX II

Procedures and minimum elements to be addressed in an environmental risk assessment as foreseen under Article 9

To evaluate risks associated with the introduction or translocation of aquatic organisms it is necessary to assess the probability that the organisms will become established and the consequences of that establishment.

The process addresses the major environmental components. It provides a standardised approach for evaluating the risk of genetic and ecological impacts as well as the potential for introducing a non-target species that might impact the native species of the proposed receiving waters.

During the review process, emphasis is not on the ratings but on the detailed biological and other relevant information statements that motivate them. In case of scientific uncertainty, the precautionary principle should be applied.

For the purpose of this Annex, where an application refers to a proposed translocation the terms 'introduction/introduced' are to be replaced by 'translocation/translocated'.

PART 1

ECOLOGICAL AND GENETIC RISK ASSESSMENT PROCESS*Step 1***Likelihood of establishment and spreading beyond the intended area of introduction**

Event	Likelihood (H, M, L) ⁽¹⁾	Certainty (VC, RC, RU, VU) ⁽²⁾	Comments in support of assessment ⁽³⁾
The introduced or translocated species, escaped or dispersed, successfully colonises and maintains a population in the intended area of introduction beyond the control of the aquaculture facility.			
The introduced species or translocated, escaped or dispersed, spreads beyond the intended area of introduction.			
Final rating ⁽⁴⁾			

⁽¹⁾ H = High, M = Medium, L = Low

⁽²⁾ VC = Very certain, RC = Reasonably certain, RU = Reasonably uncertain, VU = Very uncertain

⁽³⁾ The assessor is referred for guidance to Appendix A and Appendix B of the ICES Code of Practice.

⁽⁴⁾ The final rating for the likelihood of establishment and spreading is assigned the value of the element with the lowest rating (for example, high and low ratings for the above elements would result in a final low rating). Again, both events — probability of the organism successfully colonising and maintaining a population in the intended area of introduction (be it a confined environment such as a facility, or a natural habitat) and the probability of spreading beyond the intended area of introduction (estimated as explained above) — need to occur in order to have establishment beyond the intended area of introduction.

The final rating for the level of Certainty is assigned the value of the element with the lowest level of certainty (e.g. very certain and reasonably certain ratings would result in a final reasonably certain rating). The harmfulness of an establishment and spreading should be taken into account, together with risk/benefit ration, in arriving at the final rating.

*Step 2***Consequences of establishment and spreading**

Event	Likelihood (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
Genetic mixing with local populations leads to a loss of genetic diversity.			

Event	Likelihood (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
Competition (food, space) with or predation on native populations leads to their extirpation.			
Other undesirable events of ecological nature			
Some of the abovementioned events persist even after removal of the introduced species.			
Final rating ⁽²⁾			

⁽¹⁾ The assessor is referred for guidance to Appendix A and Appendix B of the ICES Code of Practice.

⁽²⁾ The final rating for the consequences of establishment and spreading is assigned the value of the element (individual probability) with the highest rating and the final rating for the level of certainty is assigned the value of the element with the lowest level of certainty.

Step 3

Risk potential associated to the alien and locally absent species

A single value is given based on the assessments done in Steps 1 and 2:

Component	Risk potential (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
Establishment and spreading (step 1)			
Ecological consequences (step 2)			
Final rating of overall risk potential ⁽²⁾			

⁽¹⁾ The assessor is referred for guidance to Appendix A and Appendix B of the ICES Code of Practice.

⁽²⁾ The final categorisation of risk potential takes the value of the highest of the two probabilities when there is no probability increment between the two estimates (i.e. if the Risk of establishment and spreading is high and the risk of ecological consequences is medium, the final rating takes the value of the highest of the two probabilities which is high. When there is a probability increment between the two estimates (i.e. a mixture of high and low) the final value is medium.

The result of this assessment will be expressed in terms of the following risk levels:

A high-risk movement:

- (a) has a high risk of damaging biodiversity from spreading and other ecological consequences;
- (b) operates under farming conditions which would increase the risk of such damage;
- (c) involves an aquaculture facility which sells live aquatic animals for further farming or restocking;
- (d) as a consequence, the movement is of major concern (major mitigation measures are required). It is advised that the proposal be rejected unless mitigation procedures can be developed to reduce the risk to low.

A medium-risk movement:

- (a) has a medium risk of damaging biodiversity from spreading and other ecological consequences;
- (b) operates under farming conditions which would not necessarily increase the risk of such damage, taking account of the species and the containment conditions;
- (c) involves an aquaculture facility which sells its products mainly for human consumption;

- (d) as a consequence the movement is of moderate concern. It is advised that the proposal be rejected unless mitigation procedures can be developed to reduce the risk to low.

A low-risk movement:

- (a) has a low risk of damaging biodiversity from spreading and other ecological consequences.
- (b) operates under farming conditions which would not increase the risk of such damage;
- (c) involves an aquaculture facility which sells its products for human consumption only;
- (d) as a consequence the movement is of negligible concern. It is advised that the proposal be approved. Mitigation is not needed.

The proposal can only be approved as presented (no mitigating measures required) if the overall estimated risk potential is low and if the overall certainty for which the overall risk has been estimated is very certain or reasonably certain.

If, as a result of a first analysis, a high or medium category is attributed to the overall risk, then containment or mitigation proposals are to be incorporated in the application, which will be subject to subsequent risk analysis until the final rating for the overall risk becomes low with a very certain or reasonably certain assessment. Descriptions of these additional steps, together with detailed specifications of the containment or mitigation measures, will become an integral part of the risk assessment.

PART 2

NON-TARGET SPECIES ASSESSMENT PROCESS

Step 1

Likelihood of establishment and spreading of non-target species beyond the intended area of introduction

Event	Likelihood (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
A non-target species is introduced as a consequence of the introduction or translocation of the aquatic organisms.			
The introduced non-target species encounters susceptible habitats or host organisms.			
Final rating ⁽²⁾			

⁽¹⁾ The assessor is referred for guidance to Appendix A and Appendix B of the ICES Code of Practice.

⁽²⁾ The final rating under likelihood is assigned the value of the element with the lowest risk rating and the final rating for the level of certainty is also assigned the value of the element with the lowest level of certainty.

Step 2

Consequences of non-target species establishment and spreading

Event	Likelihood (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
The non-target species compete with or predate on native populations, leading to their extirpation.			
Genetic mixing of the non-target species with local populations leads to a loss of genetic diversity.			
Other undesirable events of ecological or pathological nature			

Event	Likelihood (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
Some of the abovementioned events persist even after removal of the non-target species.			
Final rating ⁽²⁾			

⁽¹⁾ The assessor is referred for guidance to Appendix A and Appendix B of the ICES Code of Practice.

⁽²⁾ The final rating for the consequences is assigned the value of the highest risk rating and final rating for the level of certainty is also assigned the value of the element with the lowest level of certainty.

Step 3

Risk potential associated with non-target species

A single value is given based on the assessments performed in Steps 1 and 2:

Component	Risk potential (H, M, L)	Certainty (VC, RC, RU, VU)	Comments in support of assessment ⁽¹⁾
Establishment and spreading (step 1)			
Ecological consequences (step 2)			
Final rating ⁽²⁾			

⁽¹⁾ The assessor is referred for guidance to Appendix A and Appendix B of the ICES Code of Practice.

⁽²⁾ The final rating under risk potential is assigned the value of the element with the lowest risk rating and the final rating for the level of certainty is also assigned the value of the element with the lowest level of certainty.

The conditions applicable to the assessment of risk potential associated to the alien species (part 1) are to also apply, *mutatis mutandis*, to this risk potential associated with non-target species (part 2), including the obligation to introduce containment and mitigation measures.

PART 3

OVERALL ENVIRONMENTAL RISK ASSESSMENT — SUMMARY REPORT

- History, background and rationale for the request:
 - risk assessment summary information
 - summary of the ecological and genetic risk assessment
 - summary of the non-target species risk assessment
- Comments:
- Mitigation measures:
- Concluding statement on total organism potential risk:
- Advice to competent authority:

ANNEX III

Quarantine

Quarantine is the means by which live animals or plants and any of their associated organisms are maintained in complete isolation from the surrounding environment so as to prevent impact on wild and farmed species and undesirable changes to natural ecosystems.

It is necessary to keep alien or locally absent species in quarantine long enough to detect all non-target species and to confirm the absence of pathogens or diseases. The unit is to be constructed in accordance with the specifications of the competent authority in the Member State of its location which is to be responsible for approving it. The duration of quarantine must be indicated in the permit. If the facility is not located of the receiving Member State, the advisory committee responsible for the facility and the advisory committee in the receiving Member State must agree on the duration.

Operators are to run quarantine facilities in accordance with the following conditions. In addition the operator must have a quality assurance programme and an operating manual.

For the purpose of this Annex where an application refers to a proposed translocation, the terms introduction/introduced are to be replaced by translocation/translocated.

Effluent and waste disposal

All effluents and wastes generated within the facility must be treated in a manner that effectively destroys all possible target species and associated organisms. To ensure continuous operation and complete containment, quarantine effluent treatment systems must be equipped with fail-safe backup mechanisms.

Treated effluent and waste may contain substances which are harmful to the environment (e.g. antifouling agents) and must be disposed of in a manner which minimises environmental impact.

Details of effluent and solid waste treatment must be prepared, listing the personnel responsible for treatments and timing. The system must be monitored to ensure effective operation and early detection of possible failures.

Physical separation

The organisms which have been transferred must be kept separate from other organisms to ensure containment. This excludes sentinel species which are specifically included to test the effects of the introduced species. The entry of birds, other animals, disease agents and contaminants must be prevented.

Personnel

Access must be restricted to trained, authorised personnel. Footwear, hands and any material used within the facility should be disinfected (see below) before exiting the facility.

Equipment

Upon receipt, all life-stages, tanks, water, shipping containers and equipment in contact with the introduced species, including the transport vehicles, must be handled in such a way as to ensure that there is no escape of the species or associated non-target species from the facility. All shipping and packing material must be disinfected, or burned if burning of the material is authorised.

Mortalities and disposal

Daily records or mortalities must be maintained and must be available for inspection by the competent authority. All mortalities must be kept on site. No mortalities, tissue or shells are to be discarded without approved treatment to ensure complete disinfection. Heat treatment such as autoclaving or chemical sterilisation may be employed.

Mortalities must be reported to the competent authority and Member States must investigate the cause of mortalities in a timely manner. Mortalities must be stored, transported and disposed of, in accordance with Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption ⁽¹⁾.

Inspection and testing

Regular inspections must be carried out for non-target species. If such a species or a previously undetected disease or parasite is identified in an organism, actions necessary to control the situation must be taken. These actions may include destruction of the organisms and disinfection of the facility.

Duration

The required duration of quarantine will vary according to the organism in question, seasonality of non-target species of concern and the rearing conditions.

Record keeping

Quarantine facilities must maintain accurate records of the following:

- entry/exit times of personnel,
- number of mortalities and method of storage or disposal,
- treatment of incoming water and of effluent,
- samples submitted to experts to test for non-target species,
- any abnormal conditions affecting quarantine operation (power cuts, building damage, serious weather conditions, etc.).

Disinfection

Disinfection involves the application of disinfectants in sufficient concentrations and for sufficient time to kill harmful organisms. The disinfectants and concentrations for quarantine disinfection must be based on complete seawater and freshwater disinfection. Similar concentrations must be used for routine facility disinfection. It is recommended that all disinfectants be neutralised before release into the surrounding environment and facilities using seawater must deal with residual oxidants produced during chemical disinfection. In case of an emergency, such as the finding of an imported parasite or disease agent, sufficient disinfectant must be available to enable treatment of the entire facility.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation last amended by Commission Regulation (EC) No 2007/2006 (OJ L 379, 28.12.2006, p. 98).

ANNEX IV

List of species foreseen by Article 2(5)

Rainbow trout, *Oncorhynchus mykiss*

Brook trout, *Salvelinus fontinalis*

Common carp, *Cyprinus carpio*

Grass carp, *Ctenopharyngodon idella*

Silver carp, *Hypophthalmichthys molitrix*

Big head carp, *Aristichthys nobilis*

Pacific cupped oyster, *Crassostrea gigas*

Japanese or Manila clam, *Ruditapes philippinarum*

Large-mouth bass, *Micropterus salmoides*

Arctic char, *Salvelinus alpinus*

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 25 June 2007

establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'

(2007/435/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(3)(a) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Having regard to the opinion of the European Parliament ⁽³⁾,

Whereas:

- (1) With a view to the progressive establishment of an area of freedom, security and justice, the Treaty provides both for the adoption of measures aimed at ensuring the free movement of persons, in conjunction with accompanying measures relating to external borders controls, asylum and immigration, and for the adoption of measures relating to asylum, immigration and safeguarding the rights of third-country nationals.
- (2) The European Council, at its meeting in Tampere on 15 and 16 October 1999, stated that the European Union must ensure fair treatment of third-country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of European

Union citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia.

- (3) The integration of third-country nationals in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the Community stated in the Treaty. However, having regard to the Treaty, the European Fund for the Integration of third-country nationals (hereinafter referred to as the Fund) should be primarily targeted at newly-arrived third-country nationals, as far as the co-financing of concrete actions supporting the integration process in Member States is concerned.
- (4) In the Hague Programme of 4 and 5 November 2004, the European Council underlines that to achieve the objective of stability and cohesion within Member States' societies it is essential to develop effective policies. It calls for greater coordination of national integration policies on the basis of a common framework and invites the Member States, the Council and the Commission to promote the structural exchange of experience and information on integration.
- (5) As requested in the Hague Programme, the Council and the representatives of the governments of the Member States established on 19 November 2004 'Common Basic Principles for immigrant integration policy in the European Union' (hereinafter referred to as the Common Basic Principles). The Common Basic Principles assist Member States in formulating integration policies by offering them a

⁽¹⁾ Opinion of 14 February 2006 (OJ C 88, 11.4.2006, p. 15).

⁽²⁾ Opinion of 16 November 2005 (OJ C 115, 16.5.2006, p. 47).

⁽³⁾ Opinion of 14 December 2006 (not yet published in the Official Journal).

thoughtful guide of basic principles against which they can judge and assess their own efforts.

- (6) The Common Basic Principles are complementary to and in full synergy with the Community legislative instruments on the admission and stay of legally residing third-country nationals concerning family reunion and long term residents, and other relevant existing legislative frameworks, including those relating to gender equality, non-discrimination and social inclusion.
- (7) Recalling the Communication of the Commission of 1 September 2005 on a common Agenda for Integration: framework for the integration of third country nationals in the European Union, the Council Conclusions on that Agenda of 1 and 2 December 2005 underline the need to strengthen the integration policies of the Member States and acknowledge the importance of defining a framework at European level for the integration of legally residing third-country nationals in all aspects of society and in particular concrete measures for implementing the Common Basic Principles.
- (8) The failure of an individual Member State to develop and implement integration policies could in different ways have adverse implications for other Member States and the European Union.
- (9) To underpin this programming in the area of integration, the budgetary Authority entered specific appropriations in the general budget of the European Union for the period 2003 to 2006 for the financing of pilot projects and preparatory actions in the field of integration (hereinafter referred to as INTI).
- (10) In the light of INTI and referring to the Commission Communications on immigration, integration and employment and the First annual report on Migration and Integration, it is considered necessary to endow the Community from 2007 with a specific instrument designed to contribute to the national efforts of Member States to develop and implement integration policies which enable third-country nationals of different cultural, religious, linguistic and ethnic backgrounds to fulfil the conditions of residence and to facilitate their integration into European societies, in accordance with the Common Basic Principles and in complementarity with the European Social Fund (hereinafter referred to as ESF).
- (11) To ensure the consistency of the Community's response to integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the ESF and the European Refugee Fund. In this context, specific joint programming arrangements to ensure the consistency of the Community's response to integration of third-country nationals through the ESF and the Fund should be developed.
- (12) Bearing in mind that the Fund and the ESF are under shared management with Member States, arrangements should also be made at national level to ensure consistency in implementation. For that purpose, the authorities of the Member States responsible for the implementation of the Fund should be required to establish cooperation and coordination mechanisms with the authorities designated by the Member States for managing the implementation of the ESF and the European Refugee Fund and to ensure that actions under the Fund should be specific and complementary to actions financed under the ESF and the European Refugee Fund.
- (13) This Decision should be targeted primarily, as far as it concerns the co-financing of concrete actions supporting the integration process of third-country nationals in Member States at actions relating to third-country nationals who are newly arrived. Reference, could be made in this context to Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents ⁽¹⁾ which refers to the period of five years of legal residence as a requirement with which third-country nationals have to comply in order to qualify for long-term residence status.
- (14) The Fund should also support Member States in enhancing their capacity to develop, implement, monitor and evaluate in general all integration strategies, policies and measures for third-country nationals as well as the exchange of information, best practices and cooperation in and between Member States contributing to enhancing this capacity.
- (15) This Decision is designed to form part of a coherent framework which also includes Decision No 573/2007/EC of the European Parliament and the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC ⁽²⁾, Decision No 574/2007/EC of the European Parliament and the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' ⁽³⁾ and Decision No 575/2007/EC of the European Parliament and the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' ⁽⁴⁾, which aims to address the issue of fairly sharing responsibilities between Member States as concerns the financial burden arising from the introduction of integrated management of the European Union's external borders and from the implementation of common policies on asylum and immigration, as developed in accordance with Title IV of Part 3 of the Treaty.

⁽¹⁾ OJ L 16, 23.1.2004, p. 44.

⁽²⁾ OJ L 144, 6.6.2007, p. 1.

⁽³⁾ OJ L 144, 6.6.2007, p. 22.

⁽⁴⁾ OJ L 144, 6.6.2007, p. 45.

- (16) The support provided by the Fund would be more efficient and better targeted if co-financing of eligible actions were based on strategic multiannual programming drawn up by each Member State in dialogue with the Commission.
- (17) On the basis of strategic guidelines adopted by the Commission, each Member State should prepare a multi-annual programming document taking into account its specific situation and needs and setting out its development strategy that should constitute the framework for the implementation of the actions to be listed in the annual programmes.
- (18) In the context of shared management as referred to in 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 ⁽¹⁾ (hereinafter referred to as the Financial Regulation), the conditions allowing the Commission to exercise its responsibilities for implementation of the general budget of the European Union should be specified and the obligations for the cooperation of the Member States clarified. Applying those conditions would enable the Commission to satisfy itself that Member States are using the Fund in a lawful and correct manner and in accordance with the principle of sound financial management within the meaning of Article 27 and Article 48(2) of the Financial Regulation.
- (19) Objective criteria should be established to allocate available annual resources to the Member States. These criteria should take into account the total number of third-country nationals legally staying in Member States and the total new admission of third-country nationals over a given reference period.
- (20) Member States should adopt adequate measures to guarantee the proper functioning of the management and control system and the quality of implementation. To this end, it is necessary to establish the general principles and the necessary functions which all programmes should fulfil.
- (21) In accordance with the principles of subsidiarity and proportionality, Member States should have the primary responsibility for the implementation and control of the interventions of the Fund.
- (22) The obligations on the Member States as regards management and control systems, the certification of expenditure, and the prevention, detection and correction of irregularities and infringements of Community law should be specified in order to guarantee the efficient and correct implementation of their multiannual and annual programmes. In particular, as far as the management and control are concerned, it is necessary to establish the arrangements by which Member States ensure that the relevant systems are in place and function satisfactorily.
- (23) Without prejudice to the Commission's powers as regards financial control, cooperation between the Member States and the Commission in this field should be encouraged.
- (24) The effectiveness and impact of actions supported by the Fund also depend on their evaluation and the dissemination of their results. The responsibilities of the Member States and the Commission in this regard, and arrangements to ensure the reliability of evaluation and the quality of the related information, should be formalised.
- (25) Actions should be evaluated with a view to a mid-term review and impact assessment, and the evaluation process should be incorporated into project monitoring arrangements.
- (26) Bearing in mind the importance of visibility of the Community funding, the Commission should provide guidance facilitating the proper acknowledgement of the support received by any authority, non-governmental organisation, international organisation or other entity receiving a grant under the Fund, taking into account the practice with respect to other instruments under shared management, such as the Structural Funds.
- (27) This Decision establishes a financial envelope for the entire duration of the programme, within the meaning of point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽²⁾ without thereby affecting the powers of the budgetary authority as they are defined by the Treaty.
- (28) Since the objective of this Decision, namely to promote the integration of third-country nationals in the host societies of Member States within the framework of the Common Basic Principles, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the Community, 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 Decision does not go beyond what is necessary in order to achieve that objective.
- (29) The measures necessary for the implementation of this Decision 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 ⁽³⁾.
- (30) In order to ensure a timely implementation of the Fund, this Decision should apply from 1 January 2007.

⁽²⁾ OJ C 139, 14.6.2006, p. 1.

⁽³⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽¹⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

- (31) In accordance with Article 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision, and is not bound by it or subject to its application.
- (32) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified, by letter of 6 September 2005, its wish to take part in the adoption and application of this Decision.
- (33) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified, by letter of 27 October 2005, its wish to take part in the adoption and application of this Decision,

HAS ADOPTED THIS DECISION:

CHAPTER I

SUBJECT MATTER, OBJECTIVES AND ACTIONS

Article 1

Subject matter and scope

1. This Decision establishes for the period from 1 January 2007 to 31 December 2013 the European Fund for integration of third-country nationals (hereinafter referred to as the Fund), as part of a coherent framework which also includes Decision No 573/2007/EC, Decision No 574/2007/EC and Decision No 575/2007/EC, in order to contribute to the strengthening of the area of freedom, security and justice and the application of the principle of solidarity between the Member States.

This Decision defines the objectives to which the Fund contributes, its implementation, the available financial resources and the distribution criteria for the allocation of the available financial resources.

It establishes the Fund's management rules, including financial rules, as well as monitoring and control mechanisms based on the sharing of responsibilities between the Commission and the Member States.

2. Third-country nationals who are on the territory of a third country and who are complying with specific pre-departure measures and/or conditions set out in national law, including those relating to the ability to integrate in the society of this Member State fall under the scope of this Decision.

3. Third-country nationals who have applied for asylum in respect of which a final decision has not yet been taken, or enjoy refugee or subsidiary protection status, or qualify as refugees or

are eligible for subsidiary protection in accordance with Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ⁽¹⁾, shall be excluded from the scope of this Decision.

4. Third-country national means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty.

Article 2

General objective of the Fund

1. The general objective of the Fund is to support the efforts made by the Member States in enabling third-country nationals of different economic, social, cultural, religious, linguistic and ethnic backgrounds to fulfil the conditions of residence and to facilitate their integration into the European societies.

The Fund shall primarily focus on actions relating to the integration of newly arrived third-country nationals.

2. In order to further the objective mentioned in paragraph 1 the Fund shall contribute to the development and implementation of national integration strategies for third-country nationals in all aspects of society in particular taking into account the principle that integration is a two-way dynamic process of mutual accommodation by all immigrants and residents of Member States.

3. The Fund shall contribute to the financing of the technical assistance at the initiative of the Member States or the Commission.

Article 3

Specific objectives

The Fund shall contribute to the following specific objectives:

- (a) facilitation of the development and implementation of admission procedures relevant to and supportive of the integration process of third-country nationals;
- (b) development and implementation of the integration process of newly-arrived third-country nationals in Member States;
- (c) increasing of the capacity of Member States to develop, implement, monitor and evaluate policies and measures for the integration of third-country nationals;
- (d) exchange of information, best practices and cooperation in and between Member States in developing, implementing, monitoring and evaluating policies and measures for the integration of third-country nationals.

⁽¹⁾ OJ L 304, 30.9.2004, p. 12.

Article 4

Eligible actions in the Member States

1. As regards the objective defined in Article 3(a), the Fund shall support actions in Member States which:
 - (a) facilitate the development and implementation by Member States of admission procedures, *inter alia* by supporting consultation processes with relevant stakeholders and expert advice or information exchanges on approaches which target specific nationalities or categories of third-country nationals;
 - (b) render the implementation of admission procedures more effective and accessible to third-country nationals, *inter alia* by using user-friendly Communication and Information Technology, information campaigns and selection procedures;
 - (c) prepare third-country nationals for their integration into host society in a better way by supporting pre-travel measures which enable them to acquire knowledge and skills necessary for their integration, such as vocational training, information packages, comprehensive civic orientation courses and language tuition in the country of origin.
2. As regards the objective defined in Article 3(b), the Fund shall support actions in Member States which:
 - (a) set up programmes and activities aiming at introducing newly arrived third-country nationals to the host society and enabling them to acquire basic knowledge about the host society's language, history, institutions, socio economic features, cultural life and the fundamental norms and values, as well as complement such existing programmes and activities;
 - (b) develop and improve the quality of such programmes and activities at local and regional level, with a particular emphasis on civic orientation;
 - (c) reinforce the capacity of such programmes and activities to reach out to particular groups, such as dependants of persons subject to admission procedures, children, women, elderly, illiterate or persons with disabilities;
 - (d) increase the flexibility of such programmes and activities, in particular through part time courses, fast track modules, distance or E-learning systems or similar models, enabling third-country nationals to complete the programmes and activities while at the same time working or studying;
 - (e) develop and implement such programmes or activities, targeted at young third-country nationals, with specific social and cultural challenges related to identity issues;
3. As regards the objectives defined in Article 3(c) and (d), the Fund shall support actions in and between Member States which:
 - (a) improve the access of third-country nationals to public and private goods and services, *inter alia* by intermediary services, interpretation and translation services and by improving the staff's intercultural capacities;
 - (b) build sustainable organisational structures for integration and diversity management, promote durable and sustainable participation in civil and cultural life, and develop modes of cooperation between different relevant stakeholders enabling officials at various levels to swiftly gain information about experiences and practices elsewhere and, where possible, to pool resources;
 - (c) develop and implement intercultural training, capacity building and diversity management, training of staff within public and private service providers, including educational institutions;
 - (d) reinforce the capacity to coordinate, implement, monitor and evaluate national integration strategies for third-country nationals across the different levels and departments of government;
 - (e) contribute to the evaluation of admission procedures or the programmes and activities referred to in paragraph 2 by supporting representative surveys among third-country nationals having benefited from them and/or among relevant stakeholders, such as enterprises, non-governmental organisations and regional or local authorities;
 - (f) introduce and implement schemes to gather and analyse information about the needs of different categories of third-country nationals at local or regional level by involving platforms for consultation of third-country nationals and for exchange of information between stakeholders and by conducting surveys among immigrant communities on how best to respond to those needs;
 - (g) contribute to the two-way process underlying integration policies by developing platforms for consultation of third-country nationals, exchange of information between stakeholders and intercultural, inter-faith and religious dialogue platforms between communities and/or between communities and policy and decision-making authorities;
 - (h) develop indicators and benchmarking for measuring progress at national level;

(i) develop high quality monitoring tools and evaluation schemes for integration policies and measures;

(j) increase the acceptance of migration in host societies as well as the acceptance of integration measures through awareness-raising campaigns, particularly in the media.

Article 5

Community actions

1. At the Commission's initiative, up to 7 % of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole (hereinafter referred to as Community actions) concerning immigration and integration policy.

2. To be eligible for funding, Community actions shall in particular:

- (a) further Community cooperation in implementing Community law and good practices in the field of immigration and implementing good practices in the field of integration;
- (b) support the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships between bodies from two or more Member States designed to stimulate innovation, facilitate exchanges of experience and good practice and improve the quality of integration policies;
- (c) support transnational awareness-raising campaigns;
- (d) support studies, dissemination and exchange of information on best practices and all other aspects of immigration and integration policies, including for the use of state of the art technology;
- (e) support pilot projects and studies exploring the possibility of new forms of Community cooperation in the field of immigration and integration and Community law in the field of immigration;
- (f) support the development and application by Member States of common statistical tools, methods and indicators for measuring policy developments in the fields of immigration and integration.

3. The annual work programme laying down the priorities for Community actions shall be adopted in accordance with the procedure referred to in Article 52(2).

CHAPTER II

PRINCIPLES OF ASSISTANCE

Article 6

Complementarity, consistency and compliance

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

In particular, to ensure the consistency of the Community's response to integration of third country nationals, actions financed under this Fund shall be specific and complementary to actions financed under the European Social Fund and the European Refugee Fund.

2. The Commission and the Member States shall ensure that assistance from the Fund and the Member States is consistent with the activities, policies and priorities of the Community. This consistency shall be indicated in particular in the multiannual programme referred to in Article 16.

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

Article 7

Programming

1. The objectives of the Fund shall be pursued within the framework of the multiannual programming period from 2007 to 2013, subject to a mid-term review, in accordance with Article 20. The multiannual programming system shall include the priorities and a process of management, decision-making, auditing and certification.

2. The multiannual programmes approved by the Commission shall be implemented by means of annual programmes.

Article 8

Subsidiary and proportional intervention

1. Implementation of multiannual and annual programmes referred to in Articles 17 and 19 shall be the responsibility of Member States at the appropriate territorial level, in accordance with the institutional system specific to each Member State. This responsibility shall be exercised in accordance with this Decision.

2. In relation to audit provisions the means employed by the Commission and the Member States shall vary according to the size of the Community contribution. The same principle shall apply to provisions on evaluation and to the reports on multiannual and annual programmes.

Article 9

Implementation methods

1. The Community budget allocated to the Fund shall be implemented in accordance with Article 53(1)(b) of the Financial Regulation, with the exception of the Community actions referred to in Article 5 and the technical assistance referred to in Article 14. Member States and the Commission shall ensure compliance with the principle of sound financial management.

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

- (a) checking the existence and proper functioning of management and control systems in the Member States in accordance with the procedures described in Article 30;
- (b) withholding or suspending payments in full or in part in accordance with the procedures described in Articles 39 and 40 if the national management and control systems fail, and applying any other financial correction required, in accordance with the procedures described in Articles 43 and 44.

Article 10

Partnership

1. Each Member State shall organise, in accordance with current national rules and practices, a partnership with the authorities and bodies which are involved in the implementation of the multiannual programme or which, according to the Member State concerned, are able to make a useful contribution to its development.

Such authorities and bodies may include the competent regional, local, urban and other public authorities, international organisations and bodies representing civil society such as non-governmental organisations, including migrant organisations, or social partners.

This partnership shall include at least the implementing authorities designated by Member States for the purpose of the management of the interventions of the European Social Fund and the responsible authority of the European Refugee Fund.

2. Such partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category.

CHAPTER III

FINANCIAL FRAMEWORK

Article 11

Global resources

1. The financial envelope for the implementation of actions financed by the Fund for the period from 1 January 2007 until 31 December 2013 shall be EUR 825 million.

2. The annual appropriations for the Fund shall be authorised by the budgetary authority within the limits of the Financial Framework.

3. The Commission shall make indicative annual breakdowns by Member States in accordance with the criteria established in Article 12.

Article 12

Annual distribution of resources for eligible actions in the Member States

1. Each Member State shall receive a fixed amount of EUR 500 000 from the Fund's annual allocation.

This amount shall be fixed at EUR 500 000 *per annum* for Member States which will accede to the European Union during the period from 2007 to 2013, for the remaining part of the period from 2007 to 2013 as from the year following their accession.

2. The remainder of the available annual resources shall be broken down between the Member States as follows:

- (a) 40 % in proportion to the average of the total number of legally residing third-country nationals in Member States over the previous three years; and
- (b) 60 % in proportion to the number of third-country nationals who have obtained an authorisation issued by a Member State to reside on its territory over the previous three years.

3. However, for the purpose of the calculation referred to in paragraph 2(b), the following categories of persons shall not be included:

- (a) seasonal workers, as defined under national law;
- (b) third country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC ⁽¹⁾;
- (c) third country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC ⁽²⁾;
- (d) third country nationals who have received a renewal of an authorisation issued by a Member State or a change of status, including third-country nationals who acquire long-term resident status in accordance with Council Directive 2003/109/EC.

4. The reference figures shall be the latest statistics produced by the Commission (Eurostat) on the basis of data provided by Member States in accordance with Community law.

Where Member States have not supplied the Commission (Eurostat) with the statistics concerned, they shall provide provisional data as soon as possible.

⁽¹⁾ OJ L 375, 23.12.2004, p. 12.

⁽²⁾ OJ L 289, 3.11.2005, p. 15.

Before accepting these data as reference figures, the Commission (Eurostat) shall evaluate the quality, comparability and completeness of the statistical information in accordance with normal operational procedures. At the request of the Commission (Eurostat), Member States shall provide it with all the necessary information to do so.

Article 13

Financing structure

1. The Fund's financial contribution shall take the form of grants.
2. Actions supported by the Fund shall be co-financed by public or private sources, shall be of a non-profit nature and shall not be eligible for funding from other sources covered by the general budget of the European Union.
3. Fund appropriations shall be complementary to public or equivalent expenditure allocated by Member States to the measures covered by this Decision.
4. The Community contribution to supported projects, as regards actions implemented in the Member States under Article 4, shall not exceed 50 % of the total cost of a specific action.

This may be increased to 75 % for projects addressing specific priorities identified in the strategic guidelines as defined in Article 16.

The Community contribution shall be increased to 75 % in the Member States covered by the Cohesion Fund.

5. Within the framework of the implementation of national programming as set out in Chapter IV, Member States shall select projects for financing on the basis of the following minimum criteria:

- (a) the situation and requirements in the Member State;
- (b) the cost-effectiveness of the expenditure, *inter alia* in view of the number of persons concerned by the project;
- (c) the experience, expertise, reliability and financial contribution of the organisation applying for funding and any partner organisation;
- (d) the extent to which the project complements other actions funded by the general budget of the European Union or as part of national programmes.

6. As a general rule, Community financial aid for actions supported by the Fund shall be granted for a period of no more than three years, subject to periodic progress reports.

Article 14

Technical assistance at the initiative of the Commission

1. At the initiative of and/or on behalf of the Commission, subject to a ceiling of EUR 500 000 of the Fund's annual allocation, the Fund may finance the preparatory measures, monitoring, administrative and technical support measures, as well as evaluation, audit and inspection measures necessary for implementing this Decision.
2. Those measures shall include:
 - (a) studies, evaluations, expert reports and statistics, including those of a general nature concerning the operation of the Fund;
 - (b) information measures for the Member States the final beneficiaries and the general public, including awareness-raising campaigns and a common data base on the projects financed under the Fund;
 - (c) the installation, operation and interconnection of computerised systems for management, monitoring, inspection and evaluation;
 - (d) the design of a common framework for evaluation and monitoring as well as a system of indicators, taking into account, where appropriate, national indicators;
 - (e) improvements in evaluation methods and the exchange of information on practices in this field;
 - (f) information and training measures for the authorities designated by Member States in accordance with Chapter V, complementary to the efforts of the Member States to provide guidance to their authorities in accordance with Article 30(2).

Article 15

Technical assistance at the initiative of Member States

1. At the initiative of a Member State, for each annual programme, the Fund may finance preparatory measures, management, monitoring, evaluation, information and control measures, as well as measures for the reinforcement of the administrative capacity for the implementation of the Fund.
2. The amount set aside for technical assistance under each annual programme may not exceed:
 - (a) for the period 2007 to 2010, 7 % of the total annual amount of co-financing allocated to that Member State, plus EUR 30 000; and
 - (b) for the period 2011 to 2013, 4 % of the total annual amount of co-financing allocated to that Member State, plus EUR 30 000.

CHAPTER IV

PROGRAMMING

Article 16

Adoption of strategic guidelines

1. The Commission shall adopt strategic guidelines setting out a framework for the intervention of the Fund, taking into account the progress in development and implementation of Community legislation in the area of immigration and other areas related to the integration of third-country nationals as well as the indicative distribution of the financial resources of the Fund for the period concerned.

2. For each of the objectives of the Fund, those guidelines shall in particular give effect to the priorities of the Community with a view to promoting the Common Basic Principles.

3. The Commission shall adopt the strategic guidelines relating to the multiannual programming period by 31 July 2007.

4. The strategic guidelines shall be adopted in accordance with the procedure referred to in Article 52(2).

Article 17

Preparation and approval of national multiannual programmes

1. Each Member State shall propose on the basis of the strategic guidelines referred to in Article 16 a draft multiannual programme which shall consist of the following elements:

- (a) a description of the current situation in that Member State as regards the implementation of national integration strategies in light of the Common Basic Principles and, where available, as regards the development and implementation of national admission and introduction programmes;
- (b) an analysis of requirements in the Member State in question in terms of the national integration strategies and, where available, admission and introduction programmes, and an indication of operational objectives designed to meet these requirements during the period covered by the multiannual programme;
- (c) the presentation of an appropriate strategy to achieve these objectives and the priorities attached to their attainment, and a description of the actions envisaged to implement these priorities;
- (d) an indication of whether that strategy is compatible with other regional, national and Community instruments;
- (e) information on the priorities and their specific targets. Those targets shall be quantified using a limited number of indicators, taking into account the principle of proportionality. The indicators shall make it possible to measure the

progress in relation to the baseline situation and the effectiveness of the targets implementing the priorities;

- (f) a description of the approach chosen for the implementation of the principle of partnership laid down in Article 10;
- (g) a draft financing plan which sets out, for each priority and each annual programme, the Fund's proposed financial contribution and the overall amount of public or private co-financing;
- (h) a description of measures taken to ensure complementarity of actions with those financed under the ESF;
- (i) the provisions laid down to ensure that the multiannual programme is made public.

2. Member States shall submit their draft multiannual programme to the Commission no later than four months after the Commission has provided the strategic guidelines for the period in question.

3. In order to approve the draft multiannual programme, the Commission shall examine:

- (a) the draft multiannual programme's consistency with the objectives of the Fund and the strategic guidelines defined in Article 16;
- (b) the relevance of the actions envisaged in the draft multiannual programme in the light of the strategy which is proposed;
- (c) the compliance of the management and control arrangements set up by the Member State for the implementation of the Fund's interventions with the provisions of this Decision;
- (d) the draft multiannual programme's compliance with Community law and in particular with Community law aiming at ensuring the free movement of persons in conjunction with the directly related accompanying measures with respect to external borders controls, asylum and immigration.

4. Where the Commission considers that a draft multiannual programme is inconsistent with the strategic guidelines or does not comply with the provisions of this Decision setting out management and control systems or with Community law, it shall invite the Member State to provide all necessary information and, where appropriate, to revise the draft multiannual programme accordingly.

5. The Commission shall approve each multiannual programme within three months following its formal submission, in accordance with the procedure referred to in Article 52(2).

Article 18

Revision of multiannual programmes

1. At the initiative of the Member State in question or the Commission, the multiannual programme shall be re-examined and, if necessary, revised for the rest of the programming period in order to take greater or different account of the Community priorities. Multiannual programmes may be re-examined in the light of evaluations and/or following implementation difficulties.
2. The Commission shall adopt a decision approving the revision of the multiannual programme as soon as possible after the formal submission of a request to that effect by the Member State concerned. The revision of the multiannual programme shall be carried out in accordance with the procedure referred to in Article 52(2).

Article 19

Annual programmes

1. The multiannual programmes approved by the Commission shall be implemented by means of annual programmes.
2. The Commission shall provide the Member States, by 1 July of each year, with an estimate of the amounts to be allocated to them for the following year from the total appropriations allocated under the annual budgetary procedure, calculated as provided by Article 12.
3. Member States shall submit to the Commission, by 1 November of each year, a draft annual programme for the following year, established in accordance with the multiannual programme and consisting of the following elements:
 - (a) the general rules for selection of projects to be financed under the annual programme;
 - (b) a description of the actions to be supported under the annual programme;
 - (c) the proposed financial breakdown of the Fund's contribution between the programme's various actions and an indication of the amount requested to cover technical assistance under Article 15 for the purpose of implementing the annual programme.
4. When examining the draft annual programme of a Member State, the Commission shall take account of the final amount of the appropriations allocated to the Fund under the budgetary procedure.

Within one month of the formal submission of the draft annual programme, the Commission shall inform the Member State concerned whether it can be approved. If the draft annual programme is inconsistent with the multiannual programme, the Commission shall invite that Member State to provide all necessary information and, where appropriate, to revise the draft annual programme accordingly.

The Commission shall adopt the financing decision, approving the annual programme, by 1 March of the year in question. The decision shall indicate the amount allocated to the Member State concerned and the period for which the expenditure is eligible.

Article 20

Mid-term review of the multiannual programme

1. The Commission shall review the strategic guidelines and where necessary, adopt, by 31 March 2010, revised strategic guidelines for the period 2011 to 2013.
2. If such revised strategic guidelines are adopted, each Member State shall re-examine its multi-annual programme and where appropriate, revise it.
3. The rules laid down in Article 17 on the preparation and approval of national multi-annual programmes shall apply *mutatis mutandis* for the preparation and approval of these revised multi-annual programmes.
4. The revised strategic guidelines shall be adopted in accordance with the procedure referred to in Article 52(2).

CHAPTER V

MANAGEMENT AND CONTROL SYSTEMS

Article 21

Implementation

The Commission shall be responsible for implementing this Decision and shall adopt such implementing rules as may be necessary.

Article 22

General principles of management and control systems

The management and control systems of multiannual 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) the respect of the principle of separation of functions between and within such bodies;
- (c) adequate resources for each body or department to carry out the functions which have been allocated to it throughout the period of implementation of actions co-financed by the Fund;
- (d) procedures for ensuring the correctness and regularity of the expenditure declared under the annual programmes;
- (e) reliable accounting, monitoring and financial reporting systems in computerised form;
- (f) a system of reporting and monitoring where the responsible body entrusts the execution of tasks to another body;

- (g) manuals of procedures in relation to the functions to be performed;
- (h) arrangements for auditing the functioning of the system;
- (i) systems and procedures to ensure an adequate audit trail;
- (j) procedures for reporting and monitoring irregularities and for the recovery of amounts unduly paid.

Article 23

Designation of authorities

1. For the implementation of its multiannual programme and annual programmes the Member State shall designate the following:

- (a) a responsible authority: a functional body of the Member State or national public authority or body designated by the Member State or a body governed by the private law of the Member State and which has a public service mission, which shall be responsible for the management of the multiannual programme and annual programmes supported by the Fund and shall handle all communication with the Commission;
- (b) a certifying authority: a national public authority or body, or individual acting as such body or authority, designated by the Member State to certify declarations of expenditure before they are sent to the Commission;
- (c) an audit authority: a national public authority or body, provided that it is functionally independent of the responsible authority and the certifying authority, designated by the Member State and responsible for verifying the effective functioning of the management and control system;
- (d) where appropriate, a delegated authority.

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

3. Subject to Article 22(b), some or all of the authorities referred to in paragraph 1 of this Article may be located within the same body.

4. The rules for implementing Articles 24 to 28 shall be adopted by the Commission in accordance with the procedure referred to in Article 52(2).

Article 24

Responsible authority

1. The responsible authority shall meet the following minimum conditions. It shall:

- (a) have legal personality, except where it is a functional body of the Member State;

- (b) have the infrastructure required for easy communication with a wide range of users and with the responsible bodies in the other Member States and the Commission;
- (c) work in an administrative context allowing it to carry out its tasks correctly and avoiding any conflict of interest;
- (d) be in a position to apply Community fund management rules;
- (e) have financial and management capacities proportionate to the volume of Community funds which it will be called upon to manage;
- (f) have at its disposal personnel with appropriate professional qualifications and language skills for administrative work in an international environment.

2. The Member State shall provide the responsible authority with adequate funding so that it can continue to carry out its tasks properly and uninterrupted throughout the period 2007 to 2013.

3. The Commission may assist the Member States in the training of staff, in particular as regards the correct application of Chapters V to IX.

Article 25

Tasks of the responsible authority

1. The responsible authority shall be responsible for managing and implementing the multi-annual programme in accordance with the principle of sound financial management.

It shall in particular:

- (a) consult partners in accordance with Article 10;
- (b) submit to the Commission the proposals for multiannual and annual programmes to which Articles 17 and 19 refer;
- (c) set up a cooperation mechanism with the managing authorities designated by the Member State for the purposes of the implementation of the actions under the ESF and the European Refugee Fund;
- (d) organise and advertise calls for tenders and proposals, if appropriate;
- (e) organise the selection of projects for co-financing under the Fund in accordance with the criteria set out in Article 13(5);
- (f) receive payments made by the Commission, and make payments to the final beneficiaries;
- (g) ensure consistency and complementarity between co-financing under the Fund and from other relevant national and Community financial instruments;

- (h) monitor the delivery of the co-financed products and services and check that the expenditure declared for actions has actually been incurred and complies with Community and national rules;
- (i) ensure that there is a system for recording and storing in computerised form accounting records of each action under the annual programmes and that the data on implementation necessary for financial management, monitoring, control and evaluation is collected;
- (j) ensure that final beneficiaries and other bodies involved in the implementation of actions co-financed by the Fund maintain either a separate accounting system or an adequate accounting code for all transactions relating to the action, without prejudice to national accounting rules;
- (k) ensure that the evaluations of the Fund referred to in Article 47 are carried out within the time limits laid down in Article 48(2) and meet the quality standards agreed between the Commission and the Member State;
- (l) set 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 referred to in Article 41;
- (m) ensure that the audit authority receives, for the purposes of carrying out the audits defined in Article 28(1), all necessary information on management procedures operated and the projects co-financed by the Fund;
- (n) ensure that the certifying authority receives all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification;
- (o) draw up and submit to the Commission progress and final reports on the implementation of the annual programmes, declarations of expenditure certified by the certifying authority and requests for payment or where appropriate statements of reimbursement;
- (p) carry out information and advisory activities; and disseminate results of supported actions;
- (q) cooperate with the Commission and the responsible authorities in the other Member States;
- (r) verify the implementation by the final beneficiaries of the guidelines referred to in Article 31(6).

2. The responsible authority's management activities for projects implemented in the Member States may be financed under the technical assistance arrangements referred to in Article 15.

Article 26

Delegation of tasks by the responsible authority

1. Where all or some of the responsible authority's tasks are delegated to a delegated authority, the responsible authority shall define precisely the scope of the tasks delegated, and set out detailed procedures for the implementation of the delegated tasks, which shall comply with the conditions laid down in Article 24.

2. These procedures shall include supplying the responsible authority with regular information on the effective performance of the delegated tasks and a description of the means employed.

Article 27

Certifying authority

1. The certifying authority shall:

(a) certify that:

(i) the declaration 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 actions selected in accordance with the criteria applicable to the programme and complying with Community and national rules;

(b) ensure for the purposes of certification that it has received adequate information from the responsible authority on the procedures and verifications carried out in relation to expenditure included in declarations of expenditure;

(c) take account for the purposes of certification of the results of all audits carried out by or under the responsibility of the audit authority;

(d) maintain accounting records in computerised form of expenditure declared to the Commission;

(e) verify the recovery of any Community financing found to have been unduly paid as a result of irregularities detected, together with interest where appropriate;

(f) keep an account of amounts recoverable and amounts recovered under the general budget of the European Union, where possible by deducting them from the next declaration of expenditure.

2. The certifying authority's activities relating to projects implemented in the Member States may be financed under the technical assistance arrangements referred to in Article 15, provided that the prerogatives of this authority as described in Article 23 are respected.

Article 28

Audit authority

1. The audit authority shall:
 - (a) ensure that audits are carried out to verify the effective functioning of the management and control system;
 - (b) ensure that audits are carried out on actions on the basis of an appropriate sample to verify expenditure declared; the sample shall represent at least 10 % of the total eligible expenditure for each annual programme;
 - (c) present to the Commission within six months of the approval of the multiannual programme an audit strategy covering the bodies which will perform the audits referred to under points (a) and (b), ensuring that the main beneficiaries of co-financing by the Fund are audited and that audits are spread evenly throughout the programming period.
2. Where the designated audit authority under this Decision is also the designated audit authority under Decisions No 573/2007/EC, No 574/2007/EC and No 575/2007/EC, or where common systems apply to two or more of these Funds, a single combined audit strategy may be submitted under paragraph 1(c).
3. For each annual programme, the audit authority shall draft a report which shall comprise:
 - (a) an annual audit report setting out the findings of the audits carried out in accordance with the audit strategy in respect of the annual programme and reporting any shortcomings found in the systems for the management and control of the programme;
 - (b) an opinion, on the basis of the controls and audits that have been carried out under the responsibility of the audit authority, as to whether the functioning of the management and control system provides reasonable assurance that declarations of expenditure presented to the Commission are correct and that the underlying transactions are legal and regular;
 - (c) a declaration assessing the validity of the request for payment or statement of reimbursement of the final balance and the legality and regularity of the expenditure concerned.
4. The audit authority shall ensure that the audit work takes account of internationally accepted audit standards.
5. The audit relating to projects implemented in the Member States may be financed under the technical assistance arrangements referred to in Article 15, provided that the prerogatives of the audit authority as described in Article 23 are respected.

CHAPTER VI

RESPONSIBILITIES AND CONTROLS

Article 29

Responsibilities of the Member States

1. Member States shall be responsible for ensuring sound financial management of multiannual and annual programmes and the legality and regularity of underlying transactions.
 2. Member States shall ensure that responsible authorities and any delegated authority, certifying authorities, audit authorities and any other bodies concerned receive adequate guidance on setting up the management and control systems referred to in Articles 22 to 28 to ensure that Community financing is used efficiently and correctly.
 3. Member States shall prevent, detect and correct irregularities. They shall notify these to the Commission, and keep the Commission informed of the progress in the administrative and legal proceedings.
- When amounts unduly paid to the final beneficiary cannot be recovered, the Member State concerned 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 its fault or negligence.
4. Member States shall be primarily responsible for the financial control of actions and shall ensure that management and control systems and audits are implemented in such a way as to guarantee that Community funds are used properly and effectively. They shall provide the Commission with a description of these systems.
 5. The detailed rules for implementing paragraphs 1 to 4 shall be adopted in accordance with the procedure referred to in Article 52(2).

Article 30

Management and control systems

1. Before the Commission approves the multiannual programme, in accordance with the procedure referred to in Article 52(2), the Member States shall ensure that management and control systems have been set up in accordance with Articles 22 to 28. They shall be responsible for ensuring that the systems function effectively throughout the programming period.
2. Member States shall submit to the Commission, together with their draft multi-annual programme, a description of the organisation and procedures of the responsible authorities, delegated authorities and certifying authorities, and the internal audit systems operating in those authorities and bodies, the audit authority, and any other bodies carrying out audits under its responsibility.
3. The Commission shall review the application of this provision in the context of the preparation of the report for the period 2007 to 2013, set out in Article 48(3).

Article 31

Responsibilities of the Commission

1. The Commission shall satisfy itself in accordance with the procedure laid down in Article 30 that the Member States have set up management and control systems that comply with Articles 22 to 28, and on the basis of the annual audit reports and its own audits that the systems function effectively during the programming period
2. Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot checks to verify the effective functioning of the management and control systems, which may include audits on actions included in the annual programmes, with a minimum of three working day's notice. Officials or authorised representatives of the Member State concerned may take part in such audits.
3. The Commission may require a Member State to carry out an on-the-spot check to verify the correct functioning of the systems or the correctness of one or more transactions. Commission officials or authorised Commission representatives may take part in such checks.
4. The Commission shall, in cooperation with the Member States, ensure that appropriate information, publicity and follow-up are provided for actions supported by the Fund.
5. The Commission shall, in cooperation with the Member States, ensure that actions are consistent with, and complementary to, other relevant Community policies, instruments and initiatives.
6. The Commission shall lay down guidelines to ensure the visibility of the funding granted under this Decision.

Article 32

Cooperation with the audit authorities of the Member States

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

The Commission shall provide its comments on the audit strategy presented under Article 28 within not more than three months after receipt.

2. In determining its own audit strategy, the Commission shall identify those annual programmes which it considers satisfactory on the basis of its existing knowledge of the management and control systems.

For those programmes, the Commission may conclude that it can rely principally on the audit evidence provided by the Member States and that it will carry out its own on-the-spot checks only if there is evidence to suggest shortcomings in the systems.

CHAPTER VII

FINANCIAL MANAGEMENT

Article 33

Eligibility — declarations of expenditure

1. All declarations of expenditure shall include the amount of expenditure incurred by final beneficiaries in implementing the actions and the corresponding contribution from public or private funds.
2. Expenditure shall correspond to the payments effected by the final beneficiaries. It shall be justified by received invoices or accounting documents of equivalent evidential value.
3. Expenditure may be considered eligible for support from the Fund only if it is actually paid no earlier than 1 January of the year referred to in the financing decision, approving the annual programme referred to in the third subparagraph of Article 19 (4). The co-financed actions must not have been completed before the starting date for eligibility.

By way of exception, the period for which the expenditure is eligible shall be fixed at three years for the expenditure implementing the actions supported under the 2007 annual programmes.

4. The rules governing eligibility of expenditure within the framework of implemented actions co-financed by the Fund in the Member States under Article 4 shall be adopted in accordance with the procedure referred to in Article 52(2).

Article 34

Completeness of payment to final beneficiaries

Member States shall satisfy themselves that the responsible authority ensures that the final beneficiaries receive the total amount of the contribution from public funds as quickly as possible. 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 final beneficiaries provided that the final beneficiaries meet all the requirements regarding the eligibility of actions and expenses.

Article 35

Use of the euro

1. Amounts set out in the draft multi-annual and annual programmes of the Member States referred to in Articles 17 and 19 respectively, certified declarations of expenditure, requests for payments referred to in Article 25(1)(o) and expenditure mentioned in the progress report on the implementation of the annual programme referred to in Article 37(4) and the final report on the implementation of the annual programme referred to in Article 49 shall be denominated in euros.

2. Commission financing decisions, approving the annual programmes of Member States referred to in the third subparagraph of Article 19(4), Commission commitments and Commission payments shall be denominated and carried out in euros.

3. Member States which have not adopted the euro as their currency on the date of the request for payment shall convert into euros the amounts of expenditure incurred in national currency. This amount shall be converted in euros using the monthly accounting exchange rate of the Commission in the month during which the expenditure was entered in the accounts of the responsible authority of the 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 paragraph 3 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.

Article 36

Commitments

Community budgetary commitments shall be made annually on the basis of the Commission financing decision, approving the annual programme referred to in the third subparagraph of Article 19(4).

Article 37

Payments — Pre-financing

1. Payments by the Commission of the contribution from the Fund shall be made in accordance with the budget commitments.

2. Payments shall take the form of pre-financing and payment of the balance. They shall be made to the responsible authority designated by the Member State.

3. A first pre-financing payment representing 50 % of the amount allocated in the financing decision approving the annual programme shall be made to the Member State within 60 days following the adoption of that decision.

4. A second pre-financing payment shall be made no more than three months after the Commission has approved, within two months of the formal submission of a request of payment by a Member State, a progress report on the implementation of the annual programme and a certified declaration of expenditure drawn up in accordance with Article 27(1)(a) and Article 33 accounting for at least 60 % of the amount of the initial payment.

The amount of the second pre-financing payment made by the Commission shall not exceed 50 % of the total amount allocated by the financing decision, approving the annual programme and, in any event, where a Member State has committed nationally an amount less the amount indicated in the financing decision, approving the annual programme, the balance of the amount of Community funds actually committed by the Member State for selected projects under the annual programme minus the first pre-financing payment.

5. Any interest generated by pre-financing payments shall be posted to the annual programme concerned, being regarded as a resource for the Member State as national public contribution and shall be declared to the Commission at the time of the declaration of expenditure relating to the final report on the implementation of the annual programme concerned.

6. The amounts paid as pre-financing shall be cleared from the accounts when the annual programme is closed.

Article 38

Payment of balance

1. The Commission shall pay the balance provided it has received the following documents no later than nine months after the eligibility deadline for expenditure laid down in the financing decision, approving the annual programme:

- (a) a certified declaration of expenditure duly drawn up in accordance with Article 27(1)(a) and Article 33 and a request for payment of the balance or a statement of reimbursement;
- (b) the final report on the implementation of the annual programme, as set out in Article 49;
- (c) the annual audit report, opinion and declaration provided for in Article 28(3).

The payment of the balance shall be subject to the acceptance of the final report on the implementation of the annual programme and of the declaration assessing the validity of the request for payment of the balance.

2. If the responsible authority fails to provide the documents required in paragraph 1 by the due date and in an acceptable format, the Commission shall decommit any part of the budget commitment of the corresponding annual programme that has not been used for payment of the pre-financing.

3. The automatic cancellation procedure defined in paragraph 2 shall be suspended, for the amount of the projects concerned, where legal proceedings or administrative appeals having suspensive effects are under way at Member State level when the documents defined in paragraph 1 are submitted. The Member State shall, in the final report submitted, give detailed information on such projects, and send reports on progress made with regard to these projects every six months. Within three months of the conclusion of the legal proceedings or administrative appeal procedure, the Member State shall present the documents required in paragraph 1 for the projects concerned.

4. The nine months period referred to in paragraph 1 shall cease to run if the Commission has adopted a decision suspending payments of the co-financing for the relevant annual programme in accordance with Article 40. The period shall start to run again from the date when the Commission decision referred to in Article 40(3) has been notified to the Member State.

5. Without prejudice to Article 39, the Commission shall, within six months of receiving the documents referred to in paragraph 1 of this Article, inform the Member State of the amount of expenditure recognised by the Commission as chargeable to the Fund, and of any financial corrections deriving from the difference between declared expenditure and the expenditure recognised. The Member State shall have three months to present its comments.

6. Within three months of receiving the Member State's comments, the Commission shall decide on the amount of expenditure recognised as chargeable to the Fund, and recover the balance arising from the difference between final recognised expenditure and the sums already paid to that Member State.

7. Subject to available funding, the Commission shall pay the balance within no more than 60 days from the date on which it accepts the documents referred to in paragraph 1. The balance of the budgetary commitment shall be decommitted six months following the payment.

Article 39

Withholding of payments

1. The payment shall be withheld by the authorising officer by delegation within the meaning of the Financial Regulation for a maximum period of six months if:

- (a) in a report of a national or Community audit body there is evidence to suggest a significant deficiency in the functioning of the management and control systems;
- (b) that officer has to carry out additional verifications following information coming to his notice which alerted him that expenditure in a certified declaration of expenditure is linked to a serious irregularity which has not been corrected.

2. The Member State and the responsible authority shall be informed immediately of the reasons for the payment being withheld. The payment shall be withheld until the necessary measures are taken by the Member State.

Article 40

Suspension of payments

1. All or part of the pre-financing and payments of the balance may be suspended by the Commission when:

- (a) there is a serious deficiency in the management and control system of the 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 declaration of expenditure is linked to a serious irregularity which has not been corrected; or
- (c) a Member State has not complied with its obligations under Articles 29 and 30.

2. The Commission may decide to suspend pre-financing and payments of the balance after having given the Member State the opportunity to present its observations within a period of three months.

3. The Commission shall end the suspension of pre-financing and payments of the balance when it considers that the Member

State has taken the necessary measures to enable the suspension to be lifted.

4. If the necessary 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 annual programme in accordance with Article 44.

Article 41

Conservation of documents

Without prejudice to the rules governing State aid under Article 87 of the Treaty, the responsible authority shall ensure that all the supporting documents regarding expenditure and audits on the programmes concerned are kept available for the Commission and the Court of Auditors for a period of five years following the closure of the programmes in accordance with Article 38(1).

This period shall be interrupted either in the case of legal proceedings or at the duly substantiated request of the Commission.

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.

CHAPTER VIII

FINANCIAL CORRECTIONS

Article 42

Financial corrections by Member States

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

2. Member States shall make the financial corrections required in connection with the individual or systemic irregularities detected in actions or annual programmes.

Corrections made by Member States shall consist in cancelling, and if applicable, recovering all or part of the Community contribution. Where the amount is not repaid in the time allowed by the relevant Member State, default interest shall be due at the rate provided for in Article 45(2). Member States shall take into account the nature and gravity of the irregularities and the financial loss to the Fund.

3. In the event of systemic irregularities the relevant Member State shall extend its enquiries to cover all operations liable to be affected.

4. Member States shall include in the final report on the implementation of the annual programme referred to in Article 49 a list of cancellation procedures initiated for the annual programme concerned.

*Article 43***Audit of accounts and financial corrections by the Commission**

1. Without prejudice to the powers of the Court of Auditors or the checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, Commission officials or authorised Commission representatives may carry out on-the-spot checks, including sample checks, on the actions financed by the Fund and on management and control systems with a minimum of three working days' notice. The Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. Officials or authorised representatives of the Member State concerned may take part in such checks.

The Commission may require the Member State concerned to carry out an on-the-spot-check to verify the accuracy of one or more transactions. Commission officials or authorised Commission representatives may take part in such checks.

2. If, after completing the necessary verifications, the Commission concludes that a Member State is not complying with its obligations under Article 29, it shall suspend the pre-financing or payment of the balance in accordance with Article 40.

*Article 44***Criteria for the corrections**

1. The Commission may make financial corrections by cancelling all or part of the Community contribution to an annual 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 declaration 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 29 prior to the opening of the correction procedure under this paragraph.

The Commission shall decide after having taken into account any comments made by the Member State.

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. Where the irregularity relates to a declaration of expenditure for which a reasonable assurance had previously been given by the audit authority in accordance with the Article 28(3)(b), there will be a presumption of a systemic problem giving rise to the application of a flat-rate or extrapolated correction, unless the Member State

can provide proof within three months to rebut this presumption.

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

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 the financial consequences, after examining the measures taken by the Member State concerned under Article 30, the reports of notified irregularities and any replies from the Member State.

*Article 45***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 the Financial Regulation. This due date shall be the last day of the second month following the issuing of the 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 the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by three and a half percentage points.

*Article 46***Obligations of Member States**

A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 42.

CHAPTER IX

MONITORING, EVALUATION AND REPORTS*Article 47***Monitoring and evaluation**

1. The Commission shall carry out regular monitoring on the Fund in cooperation with the Member States.

2. The Fund shall be evaluated by the Commission in partnership with the Member States to assess the relevance, effectiveness and impact of actions in the light of the general objective referred to in Article 2 in the context of the preparation for the reports set out in Article 48(3).

3. The Commission shall also consider the complementarity between the actions implemented under the Fund and those pursued under other relevant Community policies, instruments and initiatives.

*Article 48***Reporting obligations**

1. In each Member State the responsible authority shall take the necessary measures to ensure project-monitoring and evaluation.

To that end, the agreements and contracts it concludes with the organisations responsible for the implementation of the actions shall include clauses laying down an obligation to submit regular and detailed reports on the state of progress of implementation and completion of the assigned objectives which shall be the basis for, respectively, the progress and final reports on the implementation of the annual programme.

2. The Member States shall submit to the Commission:

- (a) by 30 June 2010, an evaluation report on the implementation of actions co-financed by the Fund;
- (b) by 30 June 2012 for the period 2007 to 2010 and 30 June 2015 for the period 2011 to 2013 respectively, an evaluation report on the results and impact of actions co-financed by the Fund.

3. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

- (a) by 30 June 2009, a report on and a review of the application of the criteria set out in Article 12 for the annual breakdown of resources between Member States; together with proposals for amendments if deemed necessary;
- (b) by 31 December 2010, an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund, together with a proposal on the Fund's future development;
- (c) by 31 December 2012 for the period 2007 to 2010 and 31 December 2015 for the period 2011 to 2013 respectively, an ex post evaluation report.

*Article 49***Final report on the implementation of the annual programme**

1. The final report on the implementation of the annual programme shall include the following information in order to obtain a clear view of the implementation of the programme:

- (a) the financial and operational implementation of the annual programme;

- (b) the progress made in implementing the multi-annual programme and its priorities in relation to its specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, of the indicators;

- (c) the steps taken by the responsible authority 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;

- (iii) the use made of technical assistance;

- (d) the measures taken to provide information on and make public the annual and multi-annual programmes.

2. The report shall be judged acceptable where it contains all the information listed in paragraph 1. The Commission shall reach a decision on the content of the report submitted by the responsible authority within two months of having received all the information referred to in paragraph 1, which shall be acknowledged to the Member States. If the Commission does not respond within the time limit laid down, the report shall be deemed to be accepted.

CHAPTER X

TRANSITIONAL PROVISIONS*Article 50***Preparation of the multi-annual programme**

1. By way of derogation from Article 17, Member States shall:

- (a) as soon as possible after 29 June 2007 but not later than 14 July 2007, designate the national responsible authority referred to in Article 24(1)(a), as well as, where appropriate, the delegated authority;

- (b) by 30 September 2007, submit the description of the management and control systems referred to in Article 31 (2).

2. By 1 July 2007, the Commission shall provide Member States with:

- (a) an estimate of the amounts allocated to them for the financial year 2007;
- (b) estimates of the amounts to be allocated to them for the financial years 2008 to 2013, on the basis of an extrapolation of the calculation for the estimate for the financial year 2007, bearing in mind the proposed annual appropriations for the years 2007 to 2013 as set out by the Financial Framework.

Article 51

Preparation of the 2007 and 2008 annual programmes

1. By way of derogation from Article 19, the following time table shall apply for implementation in the financial year 2007 and 2008:

- (a) by 1 July 2007, the Commission shall provide Member States with an estimate of the amounts allocated to them for the financial year 2007;
- (b) by 1 December 2007, Member States shall present the draft annual programme for 2007 to the Commission;
- (c) by 1 March 2008, Member States shall present the draft annual programme for 2008 to the Commission.

2. As concerns the 2007 annual programme, expenditure actually disbursed between 1 January 2007 and the date on which the financing decision approving the annual programme of the Member State concerned is adopted, may qualify for support from the Fund.

3. To allow for the adoption in 2008 of financing decisions, approving the annual programme for 2007, the Commission shall make the Community budgetary commitment for 2007 on the basis of the estimate of the amount to be allocated to the Member States, calculated as provided by Article 12.

CHAPTER XI

FINAL PROVISIONS

Article 52

Committee

1. The Commission shall be assisted by the common Committee 'Solidarity and Management of Migration Flows', established by Decision No 574/2007/EC (hereinafter referred to as the Committee).

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

Article 53

Review

The Council shall review this Decision on the basis of a proposal from the Commission by 30 June 2013.

Article 54

Entry into force and application

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

This Decision shall apply from 1 January 2007.

Article 55

Addressees

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Luxembourg, 25 June 2007.

For the Council

The President

A. SCHAVAN