

European Union

Structural Funds and Cohesion Fund 1994-99

Regulations and commentary

January 1996

European Commission

Areas eligible under the regional Objectives of the Structural Funds (1994-99)

Objective 1 (1994-99)

Economic adjustment of regions whose development is lagging behind

Objective 2 (1994-96)

Economic conversion of declining industrial areas

Objective 5b (1994-99)

Economic diversification of rural areas

Objective 6 (1995-99)

Development of sparsely populated regions in Sweden and Finland

Areas partially eligible under Objective 2

Areas partially eligible under Objective 5b



The lists of areas eligible under the Structural Funds are published in the Official Journal of the European Communities. This map gives only general guidance.

Cataloguing data can be found at the end of this publication.

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Introduction

In August 1993, the European Commission published a document intended to give potential beneficiaries of the Structural Funds⁽¹⁾ an understanding of the way they work. It contained the full text of the six regulations adopted in July 1993 and a comparative synopsis highlighting the main changes compared with the 1989-1993 period.

Much of the information in that document has now been overtaken by events. Membership of the Community has grown from 12 to 15. Enlargement prompted the addition of a new priority objective for the Structural Funds and, in March 1993, the Council established the cohesion instrument, replaced in May 1994 by the Cohesion Fund. As its name suggests, the new fund is also designed to foster economic and social cohesion within the Union.

This new edition takes account of all these changes. It is both an update for previous users and a full introduction to the Structural Funds and Cohesion Fund for new readers.

⁽¹⁾ The Community's Structural Funds are: the ERDF (European Regional Development Fund), which aims to reduce the gaps in development between the Community's regions; the ESF (European Social Fund), which has the task of improving employment prospects in the Community; and the EAGGF, Guidance Section (European Agricultural Guidance and Guarantee Fund), which assists in part-financing national agricultural aid schemes and in developing and diversifying the Community's rural areas. These were joined in 1993 by the FIG (Financial Instrument for Fisheries Guidance), which assists in the restructuring of the fisheries sector.

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Part One:

The Structural Funds

Commentary
and regulations

Commentary

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I. Operating principles

A. Concentration

1. Identification of priority objectives

In the interests of increased efficiency, the Structural Funds concentrate on a limited number of priority objectives. The priority objectives for the period 1994-1999 are as follows:

- Objective 1:** promoting the development and structural adjustment of regions whose development is lagging behind.
- Objective 2:** converting the regions or parts of regions seriously affected by industrial decline.
- Objective 3:** combatting long-term unemployment and facilitating the integration into working life of young people and of persons exposed to exclusion from the labour market, promotion of equal employment opportunities for men and women.
- Objective 4:** facilitating the adaptation of workers to industrial changes and to changes in production systems.
- Objective 5:** promoting rural development by:
- Objective 5a:** speeding up the adjustment of agricultural structures in the framework of the reform of the common agricultural policy and promoting the modernisation and structural adjustment of the fisheries sector.
- Objective 5b:** facilitating the development and structural adjustment of rural areas.

Objectives 1, 2, and 5b are specifically regional in character; they involve measures restricted to certain eligible regions or parts of regions.

Objectives 3, 4 and 5a, on the other hand, cover the whole of the Community.

The Structural Funds do not all provide assistance under all priority objectives:

Objective 1:	ERDF	ESF	EAGGF (Guidance)	
Objective 2:	ERDF	ESF		
Objective 3:		ESF		
Objective 4:		ESF		
Objective 5a:			EAGGF (Guidance)	FIFG
Objective 5b:	ERDF	ESF	EAGGF (Guidance)	

New Member States:

The Act of Accession provides for the creation of a new regional objective:

- Objective 6:** development and structural adjustment of regions with an extremely low population density.

Objective 6:	ERDF	ESF	EAGGF (Guidance)	
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Framework regul
Art. 1 (1, 2, 3, 4,

Adjustment of in
further to enlarg
Art. 52,
Protocol No. 6, /

I. Operating principles

A. Concentration

2. Eligibility of Objective 1 regions (regions whose development is lagging behind)

The regulation lays down the conditions for eligibility under Objective 1 as follows: "regions at NUTS level II whose per capita GDP, on the basis of the figures for the last three years, is less than 75% of the Community average".

The regulation makes provision, however, for extending eligibility to certain regions whose GDP is around 75% of the Community average but for which there are special reasons for inclusion under Objective 1.

An annex lists the regions eligible under Objective 1 for the period 1994-1999:

- the whole of Greece;
- the whole of Portugal;
- the whole of Ireland;
- in Belgium: the province of Hainaut;
- in Germany: the five new Länder (Brandenburg, Saxony, Saxony-Anhalt, Mecklenburg-Vorpommern and Thüringen) and East Berlin;
- in Spain: Andalusia, Asturias, Cantabria, Castilla y León, Castilla-La Mancha, Ceuta y Melilla, Comunidad Valenciana, Extremadura, Galicia, the Canary Islands and Murcia;
- in France: the French overseas départements, Corsica and the arrondissements of Valenciennes, Douai and Avesnes (which are adjacent to the Belgian region of Hainaut);
- in Italy: Abruzzi (for a three-year transitional period from 1 January 1994 to 31 December 1996), Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily;
- in the Netherlands: Flevoland;
- in the United Kingdom: Northern Ireland, Merseyside and the Highlands and Islands Enterprise Area.

Population eligible under Objective 1 (1994-1999):

State	Millions of inhabitants	% of national population
Belgium	1.279	12.8
Germany	16.447	20.7
Greece	10.209	100.0
Spain	23.269	58.2
France	2.546	4.4
Ireland	3.500	100.0
Italy	21.133	36.6
Netherlands	0.217	1.45
Portugal	9.868	100.0
United Kingdom	3.414	6.0

New Member States

The Act of Accession includes the Austrian province of Burgenland among the areas eligible under Objective 1.

Austria	0.269	3.5
Total Europe 15	92.151	25.0

framework regulation
rt. 8 (1, 2, 3), Annex 1

adjustment of instruments
further to enlargement
Annex 1, point XVII (2)

I. Operating principles

A. Concentration

3. Eligibility of Objective 2 regions (declining industrial regions and areas)

For Objective 2, the framework regulation provides for three key eligibility criteria for areas smaller than or equal to NUTS level III:

- an unemployment rate above the Community average;
- a percentage share of industrial employment higher than the Community average;
- a decline in this employment category.

The regulation also mentions secondary criteria allowing areas which are eligible under Objective 2 to be extended to include certain other areas adjacent to Objective 1 regions or areas meeting the main criteria, as well as other areas, in particular in urban districts, which are facing the threat of severe worsening of unemployment, problems related to the regeneration of derelict industrial sites and the impact of the restructuring of the fisheries sector.

The framework regulation also provides for the inclusion of West Berlin among the Objective 2 areas for the period 1994-1996.

After these three years, as of 1 January 1997, the eligibility criteria may be reviewed by the Council acting by a qualified majority on a Commission proposal.

On 21 January 1994, on the proposal of and in close consultation with each of the relevant Member States, the Commission adopted the list of areas eligible under Objective 2 for the period 1994-1996 (the full list of eligible areas is published in OJ L 81 of 24 March 1994). The list covers 58.1 million people, i.e. 16.8% of the total population of the 12 Member States.

Population eligible under Objective 2 (1994-1996):

State	Millions of inhabitants	% of national population
Belgium	1.40	14.0
Denmark	0.44	8.8
Germany	7.00	8.8
Spain	7.90	20.3
France	14.60	25.9
Italy	6.30	10.8
Luxembourg	0.13	34.2
Netherlands	2.60	17.3
United Kingdom	17.70	31.0

New Member States:

Acting on the proposal of and in close consultation with the Austrian, Finnish and Swedish authorities, the Commission adopted a list of the areas of these countries eligible under Objective 2 on 22 February and 10 May 1995 (published in OJ L 51 of 8 March 1995 for Austria and Finland and OJ L 123 of 3 June 1995 for Sweden).

Eligible areas in Finland were identified for the period 1995-1996. As authorised under the regulation of 19 December 1994, the lists of Austrian and Swedish areas were adopted for the period 1994-1999.

Population eligible under Objective 2:

Austria (1995-99)	0.637	8.2
Finland (1995-96)	0.787	15.5
Sweden (1995-99)	0.965	11.0

Total Europe 15	60.459	16.4
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Framework regulation
Art. 9 (1, 2, 3, 4, 5, 6)

I. Operating principles

A. Concentration

4. Eligibility of Objective 5b regions (rural areas)

With regard to Objective 5b, the framework regulation provides for a general criterion (assessed on the basis of per capita GDP): a low level of socio-economic development. There are an additional three main criteria, two of which must be met for an area to be eligible:

- high share of agricultural employment;
- low level of agricultural income;
- low population density and/or significant depopulation trend.

The list of areas eligible under Objective 5b can be extended to other areas which are not covered by Objective 1 and have a low level of development, if they meet one or more of the secondary criteria. These are the remote location of the area, sensitivity to trends in the agricultural sector and the restructuring of the fisheries sector, the structure of agricultural holdings and the structure of the agricultural working population, the environment, the countryside, mountain areas etc.

At the proposal of each Member State involved and in close concertation with them, the Commission adopted the list of zones eligible under Objective 5b for the period 1994-99 on 26 January 1994 (the complete list of zones eligible under Objective 5b was published in OJ L96 of 14 April 1994). This list covers a population of 29.520 million inhabitants, or 6.2% of the population of the Community of Twelve.

Population eligible under Objective 5b (1994-1999):

State	Millions of inhabitants	% of national population
Belgium	0.448	4.5
Denmark	0.361	7.0
Germany	7.823	9.6
Spain	1.731	4.4
France	9.759	17.3
Italy	4.828	8.4
Luxembourg	0.030	7.4
Netherlands	0.800	5.4
United Kingdom	2.841	4.9

New Member States:

Acting on the proposal of and in close consultation with the Austrian, Finnish and Swedish authorities, the Commission adopted a list of the areas of these countries eligible under Objective 5b on 17 February and 18 April 1995 (published in OJ L 49 of 4 March 1995 for Austria and Finland and OJ L 92 of 25 April 1995 for Sweden). These lists are applicable for the 1995-1999 period.

Population eligible under Objective 5b (1995-1999):

Austria	2.276	28.9
Finland	1.094	21.5
Sweden	0.757	8.6
Total Europe 15	32.748	8.8

Framework regulation
Art. 11a (1, 2, 3, 4)

I. Operating principles

A. Concentration

5. Eligibility of Objective 6 regions (areas with a very low population density)

The Act of Accession lays down the eligibility criteria under Objective 6 as follows: regions corresponding or belonging to regions at NUTS level II with a population density of eight inhabitants per km² or less and, subject to the requirement of concentration, some adjacent and contiguous smaller areas fulfilling the same population density criterion.

The Act of Accession also contains the list of regions eligible under Objective 6 for the period 1995-1999.

In Finland (total eligible population: 841,000 inhabitants, or 16.6% of the national population), Lapland (201,000 inhabitants) and the provinces of Kainuu (97,000 inhabitants), Pohjois-Karjala (177,000 inhabitants) and Etelä-Savo (176,000 inhabitants) are entirely eligible under Objective 6, whereas the regions of Pohjois-Savo, Keski Suomi, Keski Pohjanmaa and Pohjois Pohjanmaa are partially eligible.

In Sweden (total eligible population: 451,000 inhabitants, or 5% of the national population), the Jämtlands region (135,000 inhabitants) is entirely eligible. The regions of Norrbotten (129,000 inhabitants) and Västerbotten (65,000 inhabitants) are eligible, apart from their coastal fringes. The regions of Västernorrlands, Gävleborgs, Koppabergrs and Värmlands are partially eligible.

Eligible population under Objective 6:

State	Millions of inhabitants	% of national population
Finland (1995-96)	0.841	16.6
Sweden (1995-99)	0.451	5.0
Total Europe 15	1.292	0.4

Adjustment of instruments
further to enlargement
Art. 52
Protocol No. 6, Annex 1

I. Operating principles

A. Concentration

6. Available resources

Pursuant to the decisions of the Edinburgh meeting of the European Council, the framework regulation lays down the resources available for commitment during the period 1994-1999.

Millions of ecus, 1992 prices

Year	Total	Objective 1
1994	20,135	13,220
1995	21,480	14,300
1996	22,740	15,330
1997	24,026	16,396
1998	25,690	17,820
1999	27,400	19,280

Total: ECU 141,471 million (at 1992 prices), of which 96,346 million for Objective 1. That means that by 1999, 70% of all Structural Fund resources will have been allocated to Objective 1.

Under Objective 1, a distinction is made between two types of country:

- Member States and regions eligible for the cohesion financial instrument/Cohesion Fund (Spain, Greece, Ireland and Portugal);
- other Objective 1 regions.

In line with the decisions taken at Edinburgh, the regulation states that: "for the four Member States eligible for the cohesion financial instrument, the increase in commitment appropriations for the Structural Funds must permit a doubling of commitments in real terms under Objective 1 and the cohesion financial instrument between 1992 and 1999".

New Member States

The allocations provided under the Structural Funds for new Member States are not included in the above breakdown but are additional resources earmarked for that specific purpose. The Act of Accession naturally provided for allocations for Norway. Following this country's decision not to join the Community and the Council decision of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union, the commitment appropriations for the three new Member States are as follows:

Millions of ecus, 1995 prices

Year	Total	Objective 1	Objective 6	Objectives 2 to 5b
1995	891	32	131	728
1996	921	34	138	749
1997	949	37	147	765
1998	980	39	159	782
1999	1006	42	166	798

Framework regulation
Art. 12 (1, 2, 3), Annex 2

Adjustment of instruments
further to enlargement
Annex 1, point XVII (3)

Total: ECU 4,747 million (at 1995 prices), of which 184 million for Objective 1 and 741 million for Objective 6.

I. Operating principles

B. Partnership

Alongside concentration, partnership has been another operating principle of the Structural Funds since 1989.

It involves close collaboration between the Commission and the relevant authorities at national, regional or local level appointed by each Member State, at all programming stages.

Since 1994, this close consultation has extended to "competent authorities and bodies - including, within the framework of each Member State's national rules and current practices, the economic and social partner designated by the Member State."

In addition, provision is made that "the partnership will be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners."

Framework regulation
Art. 4

I. Operating principles

C. Programming

1. Period covered

Programming is the third general operating principle of the Structural Funds. It sets the timetable for the allocation of assistance. The first programming period ran from 1989 to 1993 inclusive.

The 1993 regulations provide for a new six-year programming period from 1994 to 1999. This means that the end of the programming period coincides with the financial perspectives decided in Edinburgh for the Community budget as a whole.

For Objectives 1 and 5b, programming covers a six-year period except in Abruzzi, Italy, where it covers a three-year period running until the end of 1996. The same applies for Objective 3.

With regard to Objective 2, on the other hand, two three-year phases are provided for. The list of eligible areas and programming documents may be adjusted at the end of the first phase. It was also agreed that there would be two three-year periods for Objective 4.

New Member States:

The programming period for the new Member States runs from 1995 to 1999. In Finland, the scheduling for assistance under Objective 2 is in two stages (1995-1996 and 1997-1999).

As allowed as an exceptional measure under the Council regulation of 19 December 1994, assistance for regions eligible under Objective 2 in Austria and Sweden has been planned for the period 1995-1999.

Coordination regulation
Art. 6

Periods covered for new
Member States
Art. 1

I. Operating principles

C. Programming

2. Scope of assistance

The regulation lays down the scope of assistance of each fund. Here is a brief summary of the fields covered.

The ERDF:

- productive investment to permit the creation or maintenance of permanent jobs;
- investment in infrastructure, with a varying scope depending on the objective, including trans-European networks for regions eligible under Objective 1;
- investment in education and health in the regions eligible under Objective 1;
- development of indigenous potential: local and SME development;
- research and development measures;
- investment linked to the environment.

The ESF:

- occupational integration of unemployed persons exposed to long-term unemployment;
- occupational integration of young people in search of employment;
- integration of persons exposed to exclusion from the labour market;
- promotion of equal opportunities on the labour market;
- adaptation of workers to industrial change;
- stability and growth in employment;
- strengthening of human potential in research, science and technology;
- strengthening of education and training systems.

The EAGGF, Guidance Section:

- supporting farming income and the maintenance of viable farming communities in mountain or less-favoured areas;
- start-up support for young farmers;
- improving the structural efficiency of holdings;
- encouraging the establishment of producers' associations;
- conversion, diversification, reorientation and improvement in the quality of agricultural production;
- development of rural infrastructure;
- encouragement for tourist investment;
- other measures such as the prevention of natural disasters, villages renewal, protection of the rural heritage, development and exploitation of woodland, protection of the environment and countryside and financial engineering.

The FIGF: in the main, the FIGF has the same scope as the former fisheries sector instruments (which operated outside the Structural Funds or were included under Objective 5a):

- adjustment of efforts in the fisheries sector;
- fleet modernisation;
- development of fish farming;
- protection of some maritime areas;
- facilities at fishing ports;
- processing and marketing of fishery products;
- promotion of products.

Each fund may also take part in technical assistance measures and in pilot or demonstration projects.

Framework regulation
Art. 2

ERDF regulation
Art. 1

ESF regulation
Art. 1

EAGGF, Guidance Section
regulation
Titles I, II, III

FIGF regulation
Art. 1

I. Operating principles

D. Additionality

The last general operating principle of the Structural Funds aims to ensure that financing from Community funds is not used to replace national structural aid.

More specifically, each Member State has to "maintain, in the whole of the territory concerned, its public structural or comparable expenditure at least at the same level as in the previous programming period, taking into account, however, the macroeconomic circumstances in which the funding takes place, as well as a number of specific economic circumstances, namely privatisations, an unusual level of public structural expenditure undertaken in the previous programming period and business cycles in the national economy."

Member States must provide the financial information needed to verify additionality when submitting plans and regularly thereafter during the implementation of the programmed assistance.

II. Forms of assistance

A. Typology

Forms of assistance financed by the Structural Funds can be grouped into three categories:

- Assistance undertaken on the initiative of a Member State (90% of Structural Fund financing for the period 1994-1999) is drawn up on the basis of development plans submitted by Member States or regions.
- Assistance undertaken on the Community's initiative (9% of the total) allows the European Commission to make specific resources available for measures of special interest to the Community.
- Innovative measures (1% of the total) are also undertaken on the initiative of the Commission. These, however, concentrate on exploring new ways of achieving the objectives set.

II. Forms of assistance

B. National initiatives

1. Allocation of resources

The legislation provides that "the Commission shall, using transparent procedures, make indicative allocations by Member State for each of the Objectives 1 to 4 and 5b of the Structural Fund commitment appropriations taking full account, as previously, of the following objective criteria: national prosperity, regional prosperity, population of the regions, and the relative severity of structural problems, including the level of unemployment and, for the appropriate Objectives, the needs of rural development."

In addition, Objective 5a, for regions not covered by Objective 1, receives an allocation based mainly on a continuity criterion related to the degree of use of resources during the preceding programming period, and on the specific structural needs identified in the agricultural and fisheries sectors.

Breakdown of Structural Fund allocations for Community support frameworks and single programming documents (in millions of ecus, 1994 prices)

State	Objective 1 1994-99	Objective 2 1994-96 1997-99	Objectives 3 and 4** 1994-99	Objective 5a 1994-99	Objective 5b 1994-99
Belgium	730	160	*	465	77
Denmark	-	56	*	301	54
Germany	13 640	733	*	1 942	1 227
Greece	13 980	-	*	-	-
Spain	26 300	1 130	*	1 843	664
France	2 190	1 765	*	3 203	2 238
Ireland	5 620	-	*	-	-
Italy	14 860	684	*	1 715	901
Luxembourg	-	7	*	23	6
Netherlands	150	300	*	1 079	150
Portugal	13 980	-	*	-	-
United Kingdom	2 360	2 142	*	3 337	817

* To be decided in 1996

** Excluding sums earmarked for Objective 1 regions

New Member States

The breakdown of commitments under Objective 6 among the new Member States was stipulated in the Act of Accession. The allocations provided for under the other Objectives were established by the Commission in line with the definition of eligible areas under Objectives 2 and 5b.

Breakdown of Structural Fund allocations for Community support frameworks and single programming documents (in millions of ecus, 1995 prices)

State	Objective 1 1995-99	Objective 2 1995-99	Objectives 3, 4 and 5a 1995-99	Objective 5b 1995-99	Objective 6 1995-99
Austria	165.6	101	783	411	-
Finland	-	183	697	194	459.9
Sweden	-	160	728	138	252.0

Framework regulation
Art. 12 (4)

B. National initiatives

2. Decision-making process

For all priority objectives except Objective 5a, the decision-making process for national initiative assistance is usually in three phases:

- The plan, submitted by the Member State and drawn up at the geographical level deemed most appropriate, describes the current situation with respect to the objective concerned and the main steps taken by the Member State in this area. Since 1994, the plans also include quantified objectives, where appropriate, for the proposed priorities and measures. The regional plans (Objectives 1, 2, 5b and 6) also contain an evaluation of the environmental impact of the strategy and operations proposed and, for Objective 1, an indicative overall financial table summarising the national and Community financial resources corresponding to each regional development priority adopted.
- The Community support framework (CSF), established by the Commission in close consultation with the Member State and the regions concerned, sets out priorities, financial resources and forms of assistance. The new inclusions in the plans since 1994 (quantified objectives, environmental impact, summary financial table for Objective 1) are also included in the Community support frameworks.
- Implementation measures usually take the form of an operational programme (OP), but can also take other forms (global grants, large-scale projects, grant systems, etc.). Implementation measures are submitted by the Member State in the form of a financing request and adopted by the Commission.

However, in order to speed up and simplify the programming procedure, the 1993 legislation provides that Member States may submit a single programming document (SPD) comprising the development plan and the relevant financing request. In this case, the single Commission decision includes components of both the Community support framework and the OPs or other forms of assistance.

The programming of Objective 5a presents some specific features. Firstly, in Objective 1 regions, Objective 5a measures are programmed within the CSFs for the regions concerned. Secondly, outside these regions, measures for production structures are not programmed in the strict sense of the term - instead Member States must submit an estimate of the cost of these measures to the Commission for approval. However, measures relating to processing and marketing structures are programmed, as for the other objectives, and are included in the CSFs or SPDs. In this case, the decision-making stages are the same as for the other objectives. For the new fisheries strand of Objective 5a, the SPD procedure is used.

Framework regulation
Art. 8, 9, 10, 11a

Coordination regulation
Art. 5, 6, 10

II. Forms of assistance

C. Community initiatives

1. Decision-making process

The decision-making process for Community initiatives for the period 1994-1999 was as follows: in June 1993, the Commission published a green paper on the future of Community initiatives, laying down the themes it considered should be given priority. On the basis of this document and the broad consultation which followed its release, the Commission put forward guideline proposals in March and April 1994.

After consulting the European Parliament, the Committee of the Regions, the Economic and Social Committee and the management committee on Community initiatives, the Commission adopted the guidelines for Community initiatives on 15 June 1994 (OJ C 180 of 1 July 1994).

13 initiatives are provided for:

- **Interreg II:** crossborder cooperation (Part A) and energy networks (Part B);
- **Leader II:** rural development;
- **Regis II:** integration of the most remote regions;
- **Employment:** NOW (access to future-orientated occupations and management positions for women; HORIZON (employment prospects of the disabled and other disadvantaged groups); Youthstart (labour market integration of young people under 20, in particular those without basic qualifications or training);
- **Adapt:** Adaptation of the workforce to industrial change;
- **Rechar II:** conversion of coal-mining areas;
- **Resider II:** conversion of steel areas;
- **Konver:** economic diversification in regions heavily dependent on the defense sector;
- **Retex:** economic diversification in areas heavily dependent on the textile and clothing industry;
- **Textile and clothing in Portugal:** modernisation of the Portuguese textile and clothing industry;
- **SMEs:** strengthening of the competitiveness of small and medium-sized enterprises;
- **Urban:** regeneration of crisis-struck areas in medium-sized and large towns;
- **Pesca:** economic diversification in areas heavily dependent on the fisheries sector.

Since then, the Commission has launched a new initiative called **Peace**, aimed at supporting the peace and reconciliation process in Northern Ireland. This initiative covers Northern Ireland and the six border counties of Ireland. The Structural Funds are contributing ECU 300 million for the period 1995-1997.

Furthermore, in October 1995, when allocating the Community initiative budget appropriation, the Commission broadened the scope of two Community initiatives:

- Interreg II (strand C): cooperation in the area of regional planning, in particular management of water supply;
- Employment (Inclusion strand): integration of people threatened with social exclusion and measures to combat racism and xenophobia.

These Community initiatives are generally implemented by means of operational grants, but can also be put into practice via global grants.

Framework regulation
Art. 12 (5)

Coordination regulation
Art. 11 (1, 2), 29a

II. Forms of assistance

C. Community initiatives

2. Breakdown of appropriations

For the period 1994-1999, the regulation provides for 9% of the Structural Funds' commitment appropriations to be earmarked for Community initiatives.

As is the case for other structural financing, subsidies granted for Community initiatives can be used only within the European Union*. A limited proportion of resources for initiatives which are regional in character may be spent outside the areas covered by Objectives 1, 2, 5b and 6.

The European Commission has set the indicative breakdown by Member State of the appropriations earmarked for the various Community initiatives (in millions of ecus at 1995 prices) on the basis of objective criteria such as population covered, regional GDP and unemployment rate:

Country / Community initiative	Interreg II	Leader II	Regis II	Employment / Adapt	Rechar II Resider II Konver Retex	SMEs	Urban	Pesca	Peace	Total
Belgium	104.00	10.20	-	83.80	65.40	12.30	14.10	2.00	-	291.70
Denmark	19.20	9.90	-	48.30	2.40	2.50	1.50	19.70	-	103.50
Germany	451.90	206.80	-	454.60	804.60	185.50	115.00	23.30	-	2241.70
Greece	628.20	162.90	-	103.50	109.90	83.30	51.10	30.70	-	1169.60
Spain ⁽¹⁾	688.60	402.70	216.90	738.30	235.40	251.10	189.50	45.60	-	2768.10
France	268.00	230.50	265.60	473.50	226.50	58.50	70.50	33.50	-	1626.60
Ireland	164.70	84.00	-	116.20	9.40	28.80	20.50	6.80	60.00	490.30
Italy	385.60	326.50	-	616.90	232.20	190.40	135.10	37.00	-	1923.60
Luxembourg	3.60	1.20	-	0.60	13.50	0.30	0.50	-	-	19.90
Netherlands	188.00	11.50	-	131.30	51.30	10.30	22.40	12.80	-	427.80
Austria	48.82	26.44	-	39.30	9.53	8.74	13.27	-	-	146.10
Portugal ⁽²⁾	352.60	129.40	125.70	66.50	198.50	124.00	49.40	29.10	-	1075.20
Finland	47.93	28.07	-	55.51	-	10.80	7.66	3.41	-	153.40
Sweden	46.55	16.10	-	36.30	3.26	16.76	4.87	3.97	-	127.80
United Kingdom	122.80	77.90	-	514.00	407.00	68.30	121.30	43.30	240.00	1594.70
Total⁽³⁾	3520.40	1758.70	608.20	3478.50	2368.70	1077.00	816.90	296.40	300.00	14275.50

- (1) Excluding a reserve fund of ECU 50.7 million not broken down by initiative.
- (2) The initiative for the Portuguese textile and clothing industry (ECU 406 million) is no longer drawn from the Structural Funds budget but comes under the "Industry" heading of the Community budget.
- (3) Including the reserve fund for Spain and ECU 64.9 million (for the Leader, SME and Pesca initiatives) not broken down by country.

* However, the European Parliament decided to devote ECU 150 million under the 1994 PHARE budget to measures carried out in certain central and eastern European countries (CEECs) as part of the crossborder cooperation programmes between these countries and the EU Member States.

II. Forms of assistance

D. Innovative measures

Alongside national initiative programmes (OPs, SPDs, etc.) and the Community initiative programmes, the Structural Funds also finance studies, technical assistance measures and pilot projects relating to their fields of activity.

Four themes have been identified for the ERDF:

- interregional cooperation (within and outside the Community);
- regional economic innovation (by integrating the concept of the information society, supporting technology transfer, developing new forms of employment and promoting cultural cooperation);
- Community regional planning measures;
- regeneration of urban areas in crisis.

Pilot studies under the ESF aim to test new approaches to the content, methods and organisation of vocational training and the development of employment.

The EAGGF, Guidance Section can provide financial assistance for the following measures:

- technical assistance, monitoring and dissemination of information;
- pilot and/or demonstration projects.

For the FIFG, the measures are as follows:

- development and updating of Community files on fishing fleets;
- studies, pilot projects and demonstration projects in the following areas:
 - improving the value added of fishery and fish-farming products;
 - strengthening of transnational cooperation and information between businesses;
- collection of social and economic data, etc.

Pilot and/or demonstration projects can be submitted by Member States, regional or local authorities or by private individuals. They generally follow a call for proposals on specific issues put forward by the Commission.

ERDF regulation
Art. 10

ESF regulation
Art. 6

EAGGF, Guidance Section
regulation
Art. 8

FIFG regulation
Art. 4

III. Implementing procedures

A. Compatibility with Community policies

The regulations highlight the need for compatibility between the measures financed through the Structural Funds and other Community policies, particularly in four areas which are explicitly mentioned:

- compliance with competition rules, with specific notification procedures for decisions to award finance for productive investment projects over ECU 50 million;
- compliance with Community provisions on the award of contracts (in particular the directives relating to public procurement);
- compliance with the Community's environmental policy (in this connection, as provided for in the regulations, each regional CSF or SPD contains an assessment of the environmental situation in the region concerned and an evaluation of the environmental impact of the proposed strategy and measures);
- compliance with the principle of equal opportunities for men and women.

All programming documents approved by the Commission contain common provisions giving a detailed description of the principles to be respected to ensure compatibility between measures financed by the Structural Funds and other Community policies.

Framework regulation
Art. 7

III. Implementing procedures

B. Appraisal, monitoring and evaluation

In accordance with the principles laid down at the European Council meeting in Edinburgh, cost-effectiveness is a key factor in Structural Fund assistance. The regulation provides that "assistance will be allocated where appraisal shows medium-term economic and social benefits commensurate with the resources deployed".

All programming documents approved by the Commission contain common provisions which clearly define the appraisal, monitoring and evaluation arrangements to be applied throughout the implementation process.

There are three distinct phases:

Prior appraisal (ex ante)

The regulations stipulate that programming documents must be examined prior to implementation. They must, inter alia, include specific and quantified objectives, where applicable, for the proposed measures.

Monitoring (in itinere)

At the implementation stage, a monitoring committee is set up for each Community support framework (CSF), single programming document (SPD) and operational programme (OP).

These committees, composed of regional and national officials and Commission representatives, usually meet twice a year to assess progress in the implementation of the measures.

If necessary, without modifying the total sum allocated for the Community contribution and within harmonised limits by objective, the monitoring committee may adjust the procedure for granting assistance. The Commission and the Member State concerned are immediately notified of these adjustments; if they confirm the changes, these become effective straight away; confirmation must be given within 20 working days of notification.

Furthermore, after the monitoring committee has delivered an opinion and at the request of the Member State concerned, the Commission may also decide to make more substantial amendments to measures benefitting from Structural Fund assistance, or even to transfer part of the Community finance from one programme to another.

Monitoring also takes the form of annual reports and surveys.

Evaluation (ex post)

Ex post evaluation involves ascertaining that the objectives initially determined have been achieved and/or making a judgement on any discrepancies observed in relation to these objectives.

Framework regulation
Art. 6

Coordination regulation
Art. 25, 26

III. Implementing procedures

C. Part-financing rates

The regulations lay down minimum and maximum rates of Structural Fund assistance.

In Objective 1 regions, Community part-financing may not exceed 75% of the total cost of measures and must account for at least 50% of public expenditure on the measures.

However, the framework regulation specifies that, in exceptional and duly justified cases, the Structural Fund contribution in Objective 1 regions in the four Member States concerned by the Cohesion Fund (Greece, Ireland, Portugal or Spain) may rise to a maximum of 80% of the total cost, and to a maximum of 85% of the total cost for the outermost regions as well as for the outlying Greek islands which are under a handicap as far as distance is concerned.

For the other priority objectives, the ceiling is set at 50% of total cost, with a minimum of 25% of public expenditure on the measures.

These rates apply to all forms of Structural Fund assistance except technical assistance measures undertaken on the initiative of the Commission. Community financing for the latter may, in exceptional and duly justified cases, amount to 100% of the total cost.

Framework regulation
Art. 13

III. Implementing procedures

D. Financial provisions

To reconcile the need for appropriate payment procedures with the imperative of rigorous budget discipline, the regulations provide for a system of commitments, generally in annual instalments, on the basis of Commission decisions, and a system of payments linked to the commitments, with two advance payments (up to 50% followed by an additional 30%) and a payment of the balance (20%) for each instalment.

Commitments related to instalments are based on the initial or revised financing plan for the measure concerned and on the progress made in implementing it. For the purpose of applying these rules, the Commission has fixed trigger thresholds, both for the commitment of the new instalments and for the successive advances. The annual balances are paid once certain conditions for completing the measure have been met.

To expedite the financial procedures, the regulations also lay down general rules concerning payment deadlines:

- two months for payment by the Commission following an eligible application from a Member State;
- three further months, following receipt of the appropriations by the Member State, for the money to reach the final beneficiary who has submitted an eligible application to the relevant public authority.

In addition, Commission Regulation (EC) No. 302/94 of 23 February 1994 (OJ L 54 of 25 February 1994) sets out the procedures for use of the ecu in the implementation of the Structural Fund budget.

All programming documents approved by the Commission contain detailed common provisions for financial implementation.

III. Implementing procedures

E. Minimum publicity measures

In order for potential beneficiaries to be aware of the opportunities offered by the Structural Funds and to raise public awareness of Community action, the Structural Fund legislation requires the organisations responsible for implementing measures to provide adequate publicity for the Community assistance granted.

On 31 May 1994, the European Commission adopted a decision detailing the responsibilities and arrangements relating to minimum publicity measures for the period 1994-1999 (Decision No. 94/342/EC, OJ L 152 of 18 June 1994).

The rules are designed to ensure greater transparency of aid for potential beneficiaries of measures financed by the Structural Funds and greater visibility of the Community contribution in projects designed for the general public. The provisions include:

- billboards mentioning the Community assistance on sites part-financed by the Structural Funds;
- plaques on infrastructure part-financed by the Structural Funds;
- mention of the role of the Community in other measures such as productive investment, training etc.;
- the possibility of information and publicity measures jointly coordinated by the Member States, regions and the Commission.

Decision on information
and publicity measures

III. Implementing procedures

F. Control and prevention of irregularities

In order to guarantee the completion of measures financed by the Structural Funds, the regulation stipulates that Member States shall take the necessary steps to verify that the operations have been properly carried out, prevent and take action against irregularities and recover any amounts lost as a result of an irregularity or negligence.

In addition, Member States must inform the Commission of the control systems they establish. They should regularly inform the Commission of the progress of administrative and judicial proceedings. They must also make available to the Commission any appropriate national control reports on measures included in the programme.

Furthermore, the Commission may carry out on-the-spot checks, including sample checks, regarding measures financed by the Structural Funds and the Member State's management and control systems. These Commission checks are carried out once the Member State concerned has been given notice with a view to obtaining all the assistance necessary, or without notice if such an agreement has been reached between the Commission and the Member State. The Commission may ask the Member State to carry out an on-the-spot check to verify the regularity of payment requests.

Furthermore, the UCLAF regulation of 11 July 1994 (Commission Regulation (EC) No. 1681/94, OJ No. L 178 of 12 July 1994) lays down certain provisions relating to irregularities and the recovery of unduly paid sums. In particular, it stipulates that Member States should inform the Commission every three months of any cases of irregular use of the Structural Funds exceeding ECU 4,000 and of steps taken to recover the sums.

III. Implementing procedures

G. Involvement of other institutions

1. The European Parliament

A "common assembly" representing "the peoples of the States brought together in the Community" has been meeting since 1952. However, it was following the first elections to the European Parliament (EP) by direct universal suffrage in 1979 that the institution truly strengthened its budgetary, political and supervisory role.

In 1993, the provisions governing consultation of the EP were not identical in all Structural Fund regulations. However, as the procedure established by the Maastricht treaty - which had been signed but not yet ratified - was more favourable to the European Parliament, the Council, Commission and Parliament agreed that the six regulations should be regarded as a package and that the cooperation procedure should apply to them as a whole.

Since then, while respecting the division of roles between the institutions laid down by the treaty, the European Commission has supported the involvement of the EP in the implementation of Community structural measures. A code of conduct was agreed upon which provides for the following in particular:

- forwarding to the EP of lists of Objective 2 and 5a areas, development plans submitted by Member States, Community support frameworks and implementing regulations regarding monitoring and publicity;
- notification of the EP regarding Community initiatives prior to adoption, to enable the Commission to take note of the EP's requests before each initiative;
- provision of regular and detailed information on the implementation of the funds.

Framework regulation
Art. 9 (3), 11a (4), 16

Coordination regulation
Art. 10, 11, 23, 26 (5), 32 (2)

III. Implementing procedures

G. Involvement of other institutions

2. The Economic and Social Committee

Since the Treaty of Rome came into force, the Economic and Social Committee has been the official body ensuring that Community institutions are aware and take account of the interests of professional circles. Its members are appointed by Member States and are divided into three groups representing employers (industry, financial organisations and trade associations), workers (trade unions) and various other sectors (farming, craft industries, SMEs, the liberal professions, etc.).

The Economic and Social Committee must be consulted on a number of issues, including in particular the operations of the European Social Fund. Its opinion is sought by the Council and Commission when drafting legislation regarding the Structural Funds. Likewise, annual reports on the implementation of these funds and reports every three years on progress regarding economic and social cohesion are submitted to the committee.

Furthermore, the Economic and Social Committee can, on its own initiative, submit information reports to the Community institutions.

III. Implementing procedures

G. Involvement of other institutions

3. The Committee of the Regions

The Committee of the Regions was established by the Treaty on European Union. It is an advisory body comprising representatives of regional and local authorities appointed by the Member States.

Economic and social cohesion is one of the five policy areas on which the Committee must be consulted. Its opinion is therefore sought by both the Council and the Commission on Structural Fund legislation.

With a view to improving collaboration with the Committee of the Regions, the Commission adopted a communication in April 1995 laying down a provisional programme of consultations for 1995 and, in the longer term, establishing criteria for the early selection of issues on which the Committee of the Regions is to be consulted.

To summarise, the committee's opinion will be requested in three cases:

- when the subject concerns the regulatory or implementing powers exercised by decentralised bodies;
- when the planned legislation is likely to have a direct impact on the operation of regional or local administration;
- when the impact of the Community measure is liable to vary from one region to the next.

Regulations

Regulations of July 1993

- Framework regulation:
Council (EEC) No. 2081/93 amending Regulation (EEC) No. 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments 39
- Coordination regulation:
Council Regulation (EEC) No. 2082/93 amending Regulation (EEC) No. 4253/88 laying down provisions for implementing Regulation (EEC) No. 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments 54
- ERDF regulation:
Council Regulation (EEC) No. 2083/93 amending Regulation (EEC) No. 4254/88 laying down provisions for implementing Regulation (EEC) No. 2052/88 as regards the European Regional Development Fund 68
- ESF regulation:
Council Regulation (EEC) No. 2084/93 amending Regulation (EEC) 4255/88 laying down provisions for implementing Regulation (EEC) No. 2052/88 as regards the European Social Fund 73
- EAGGF, Guidance Section regulation:
Council Regulation (EEC) No. 2085/93 amending Regulation (EEC) No. 4256/88 laying down provisions for implementing Regulation (EEC) No. 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section 78
- FIG regulation:
Council Regulation (EEC) No. 2080/93 laying down provisions for implementing Regulation (EEC) No. 2052/88 as regards the financial instrument of fisheries guidance 82

Provisions and regulations on enlargement

- Adjustment of instruments further to enlargement
Excerpts from the Decision of the Council of the European Union of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union (95/1/EC, Euratom, ECSC) 86
- Periods covered for the new Member States
Council Regulation (EC) No. 3193/94 of 19 December 1994 amending Regulation (EEC) No. 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments, and Regulation (EEC) No. 4253/88 implementing Regulation (EEC) No. 2052/88 93

COUNCIL REGULATION (EEC) No 2081/93

of 20 July 1993

amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130d thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 19 of Regulation (EEC) No 2052/88 ⁽⁴⁾ requires the Council to re-examine that Regulation on the basis of a Commission proposal before 31 December 1993;

Whereas the main principles of the 1988 reform of the Structural Funds should continue to govern the activities of the Funds until 1999 but whereas experience hitherto has demonstrated the need for improvements to make structural policies more effective, simpler and more transparent;

Whereas Article 1 of Regulation (EEC) No 2052/88 lays down the priority objectives for Community action through the Structural Funds, the European Investment Bank (EIB) and the other financial instruments;

Whereas the Community has undertaken a reform of the common agricultural policy entailing structural measures, particularly for the promotion of rural development;

Whereas Community measures for the improvement of the conditions under which fishery and aquaculture products are processed and marketed were laid down by Regulation (EEC) No 4052/89 ⁽⁵⁾; whereas Community measures to improve and adapt structures in the fisheries and aquaculture sector were laid down by Regulation

(EEC) No 4028/86 ⁽⁶⁾; whereas finance for these operations comes from a variety of budgetary resources, including, in some cases, the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section; whereas, with a view to regrouping all these resources in a single financial instrument, the financial instrument for fisheries guidance (hereinafter referred to as 'FIFG') was established by Regulation (EEC) No 2080/93 ⁽⁷⁾; whereas, to the extent that the single instrument supports the achievement of the objectives set out in Article 130a of the EEC Treaty, assistance from it should be coordinated with that from the Structural Funds; whereas all the provisions governing the Structural Funds should therefore be extended to that instrument;

Whereas the Structural Funds constitute the chief means of redressing the socio-economic disturbances which review of the common fisheries policy is likely to create in certain coastal areas; whereas it is consequently necessary, except in regions already covered by Objective 1, to adjust the eligibility criteria for Objectives 2 and 5 (b) to take account of these problems;

Whereas Regulation (EEC) No 792/93 ⁽⁸⁾ introduces a temporary cohesion financial instrument through which the Community makes a financial contribution to projects relating to the environment and to the trans-European transport infrastructure network in Greece, Spain, Ireland and Portugal, provided that each of those countries has a convergence programme which has been examined by the Council designed to avoid an excessive public sector deficit; whereas the said Regulation is temporary in nature pending the establishment of the Cohesion Fund referred to in Article 130d of the Treaty as provided for by the Treaty on European Union and will be re-examined before 31 December 1993; whereas the financial instrument for which provision has been made, as amended if necessary (hereinafter referred to as the 'cohesion financial instrument'), must be covered by Regulation (EEC) No 2052/88; whereas, pursuant to Article 7 of Regulation (EEC) No 792/93, no item of expenditure may benefit both from this instrument and from the EAGGF, the European Social Fund (ESF) or the European Regional Development Fund (ERDF);

⁽¹⁾ OJ No C 118, 28. 4. 1993, p. 21.

⁽²⁾ Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁽⁴⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁵⁾ OJ No L 388, 30. 12. 1989, p. 1.

⁽⁶⁾ OJ No L 376, 31. 12. 1986, p. 7. Regulation as last amended by Regulation (EEC) No 3946/92 (OJ No L 401, 31. 12. 1992, p. 1).

⁽⁷⁾ See page 1 of this Official Journal.

⁽⁸⁾ OJ No L 79, 1. 4. 1993, p. 74.

Whereas Objectives 3 and 4 are concerned, on the one hand, with combating long-term unemployment and, on the other hand, with facilitating integration of young people; whereas these Objectives, for whose implementation the ESF is responsible, should be clarified by combining them under Objective 3, widening the latter to include the integration into working life of persons exposed to exclusion from the labour market and introducing a new Objective 4 to facilitate the adaptation of workers of either sex to industrial changes and changes in production systems;

Whereas the principle of equal opportunities for men and women on the employment market is a goal which the Community seeks and to which structural measures should contribute;

Whereas Article 3 (1) of Regulation (EEC) No 2052/88 specifies the tasks of the ERDF; whereas investment in the field of education and health in the Objective 1 regions should be supported;

Whereas paragraph 2 of that Article specifies the tasks of the ESF; whereas these should be adapted to take account of the new definitions of Objectives 3 and 4; whereas, as part of the redefinition of measures eligible for assistance from the ESF, aid for employment may be presented in the form, *inter alia*, of aid for geographical mobility;

Whereas the European Council of 11 and 12 December 1992 fixed the resources available for commitment by the Structural Funds and other structural operations for the period 1993 to 1999; whereas these resources are spending targets; whereas it also fixed the resources available in real terms for commitment under Objective 1 for that period; whereas those amounts will permit commitments under Objective 1 and under the cohesion financial instrument to double in the four Member States eligible under that financial instrument, so reaching about ECU 85 billion in those four Member States for the period 1993 to 1999;

Whereas partnership should be strengthened by involving economic and social partners in programming, in an appropriate fashion, through a better definition of the responsibilities of each party in application of the principle of subsidiarity;

Whereas *ex ante* appraisal, monitoring and *ex post* evaluation should be developed and provisions should be made for greater flexibility in the implementation of Community structural assistance to meet real needs; whereas, in the interests of effectiveness, thorough appraisal should precede the commitment of Community resources in order to ensure that they yield socio-economic benefits in keeping with the resources deployed;

Whereas the EIB will continue to devote the majority of its resources to promoting economic and social cohesion

and in particular to developing further loans in the Member States which benefit from the cohesion financial instrument and in the Community's Objective 1 regions;

Whereas, in order to improve transparency, there should be an indicative breakdown of the resources of the Structural Funds available for commitment by Member State and by each of the Objectives 1 to 4 and 5 (b); whereas, when such allocation is made, 'full account should be taken, as now, of national prosperity, regional prosperity, population of the regions, and the relative severity of structural problems, including the level of unemployment and, for the appropriate objectives, the needs of rural development'; whereas the resources of Objective 5 (a), except for those fields covered by Objective 1, must be subject to appropriate allocation;

Whereas, in order to avoid excessive increases in budgetary expenditure in the less prosperous regions, it is desirable that the levels of Community participation for operations supported by the Structural Funds be modulated and that, in consequence, intervention rates may be increased, in exceptional cases, in these regions;

Whereas, in order to secure effective concentration of assistance, Community measures under Objective 2 could cover up to 15% of the Community population;

Whereas, in order to ensure better coordination between structural assistance under Objectives 2 and 5 (b), the lists of areas eligible under those Objectives should, as far as possible, be adopted at the same time;

Whereas measures to speed up the adjustment of agricultural and fisheries structures (Objective 5 (a)) should be coordinated with the other Objectives referred to in this Regulation;

Whereas the principles and goals of sustainable development are set out in the Community programme of policy and action in relation to the environment and sustainable development as referred to in the Council Regulation of 1 February 1993⁽¹⁾; whereas Community policy in the field of the environment is designed to ensure a high level of protection while taking account of the variety of situations in the various regions of the Community; whereas the requirements of environmental protection should form part of the definition and implementation of other Community policies; whereas the Member States should therefore supply, in the plans submitted under Objectives 1, 2 and 5 (b), an appraisal of the state of the environment and the environmental impact of the operations envisaged, in accordance with the provisions of Community law in force, as well as the steps they have taken to associate their environmental authorities with the preparation and implementation of the plans;

⁽¹⁾ OJ No C 138, 17. 5. 1993, p. 1.

Whereas a report on progress in achieving economic and social cohesion should be presented every three years,

In the framework of the review of the common fisheries policy, measures for the adjustment of fisheries structures come under Objective 5 (a).

(*) OJ No L 193, 31. 7. 1993, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 19 of Regulation (EEC) No 2052/88 shall be replaced by the following:

1. OBJECTIVES AND TASKS OF THE STRUCTURAL FUNDS

Article 1

Objectives

Community action through the Structural Funds, the financial instrument for fisheries guidance (hereinafter referred to as the "FIFG") established by Regulation (EEC) No 2080/93 (*), the EIB cohesion financial instrument and other existing financial instruments shall support the achievement of the general objectives set out in Articles 130a and 130c of the Treaty. The Structural Funds, the FIFG, the EIB and the other existing financial instruments shall each contribute in appropriate fashion to the attainment of the following five priority objectives:

1. promoting the development and structural adjustment of regions whose development is lagging behind (hereinafter referred to as "Objective 1");
2. converting the regions, frontier regions or parts of regions (including employment areas and urban communities) seriously affected by industrial decline (hereinafter referred to as "Objective 2");
3. combating long-term unemployment and facilitating the integration into working life of young people and of persons exposed to exclusion from the labour market (hereinafter referred to as "Objective 3");
4. facilitating the adaptation of workers of either sex to industrial changes and to changes in production systems (hereinafter referred to as "Objective 4");
5. promoting rural development by:
 - (a) speeding up the adjustment of agricultural structures in the framework of the reform of the common agricultural policy;
 - (b) facilitating the development and structural adjustment of rural areas,
 (hereinafter referred to as "Objectives 5 (a) and 5 (b)").

Article 2

Means

1. The Structural Funds (the EAGGF Guidance Section, the ESF and the ERDF) and the FIFG shall contribute, each according to the specific provisions governing its operations, to the attainment of Objectives 1 to 5 (b) on the basis of the breakdown given below:

- Objective 1: ERD, ESF and EAGGF Guidance Section,
- Objective 2: ERDF and ESF,
- Objective 3: ESF,
- Objective 4: ESF;
- Objective 5 (a): EAGGF Guidance Section and FIFG,
- Objective 5 (b): EAGGF Guidance Section, ESF and ERDF.

2. The EIB, while performing the tasks assigned to it by Article 129 and 130 of the Treaty, shall cooperate in achieving the objectives set out in Article 1, in accordance with the procedures laid down in its Statute.

3. The other existing financial instruments may contribute, each according to the specific provisions governing its operations, to any measure supported by one or more of the Structural Funds in connection with one of the Objectives 1 to 5 (b). Where appropriate, the Commission shall take measures to enable these instruments to make a better contribution to the Objectives set out in Article 1.

Article 3

Tasks of the Funds

1. In accordance with Article 130c of the Treaty, the ERDF shall:

- have the essential task of providing support for Objectives 1 and 2 in the regions concerned,
- in addition, participate in the operations of Objective 5 (b).

It shall in particular provide support for:

- (a) productive investment;
- (b) the creation or modernization of infrastructure which contribute to the development or conversion of the regions concerned;

- (c) measures to exploit the potential for internally generated development of the regions concerned;
- (d) investment in the field of education and health in regions concerned by Objective 1.

The ERDF shall also provide support for studies or pilot schemes concerning regional development at Community level, especially where frontier regions of Member States are involved.

2. Within the framework of Article 123 of the Treaty, the ESF shall have the priority task of providing support for Objectives 3 and 4 throughout the Community and, in addition, providing support for Objectives 1, 2 and 5 (b).

To combat unemployment, it shall in particular contribute to:

- (a) facilitating access to the labour market;
- (b) promoting equal opportunities in the labour market;
- (c) developing skills, abilities and professional qualifications;
- (d) encouraging job creation.

In this framework, the ESF shall provide for studies and pilot schemes, especially those covering aspects common to several Member States.

3. In line with the principles set out in Article 39 of the Treaty, assistance from the EAGGF Guidance Section shall be geared in particular to the following tasks:

- (a) strengthening and re-organizing agricultural and also, in this context, forestry structures, including those for the marketing and processing of agricultural and forestry products and helping to offset the effects of natural handicaps on agriculture;
- (b) ensuring the conversion of agricultural production and fostering the development of supplementary activities for farmers of either sex;
- (c) helping to ensure a fair standard of living for farmers of either sex;
- (d) helping to develop the social fabric of rural areas, to safeguard the environment and to preserve the countryside (*inter alia* by securing the conservation of natural agricultural resources).

The EAGGF Guidance Section shall also contribute to technical assistance and information operations, and provide support for studies or pilot schemes concerning the adjustment of agricultural structures and the promotion of rural development at Community level.

4. The specific provisions governing operations under each Structural Fund shall be laid down in the implementing decisions adopted pursuant to Article 130e of the Treaty.

They shall establish in particular the procedures for providing assistance in one of the forms defined in Article 5 (2), the conditions of eligibility and of Community participation. Without prejudice to paragraph 5 of this Article, they shall also establish the arrangements for the monitoring, evaluation, financial management and checking of measures and any transitional provisions necessary in relation to existing rules.

5. The Council, acting on the basis of Article 130e of the Treaty, shall adopt the provisions necessary for ensuring coordination between the different Structural Funds, on the one hand, and between them and the EIB and the other existing financial instruments, on the other. The Commission and the EIB shall establish by mutual agreement the practical arrangements for coordinating their operations.

The implementing decisions referred to in this Article shall also lay down the transitional provisions concerning the integrated approaches adopted under existing rules.

Article 3a

Tasks of the FIFG

The tasks on the FIFG and specific provisions governing its operations, including transitional provisions, shall be laid down in Regulation (EEC) No 2080/93 by virtue of Article 43 of the Treaty.

The provisions of this Regulation and the provisions adopted pursuant to Article 3 (5) of this Regulation shall apply to the FIFG.

II. ARRANGEMENTS FOR STRUCTURAL OPERATIONS

Article 4

Complementarity, partnership, technical assistance

1. Community operations shall be such as to complement or contribute to corresponding national operations. They shall be established through close consultations between the Commission, the Member State concerned and the competent authorities and bodies — including, within the framework of each Member State's national rules and current practices, the economic and social partner, designated by the Member State at national, regional, local or other level, with all parties acting as partners in pursuit of a common goal. These consultations shall hereinafter be referred to as the "partnership". The partnership shall

cover the preparation and financing, as well as the *ex ante* appraisal, monitoring and *ex post* evaluation of operations.

The partnership will be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners.

2. Acting in accordance with the provisions of this Regulation and with the provisions referred to in Article 3 (4) and (5), the Commission shall take steps and implementing measures to ensure that Community operations are in support of the objectives set out in Article 1 and impart an added value to national initiatives.

3. Within the framework of the partnership, the Commission may, in accordance with the provisions referred to in Article 3 (4), contribute to the preparation, implementation and adjustment of operations by financing preparatory studies and technical assistance operations locally, in agreement with the Member State concerned and, where appropriate, with the authorities and bodies referred to in paragraph 1.

4. For each objective, tasks shall be shared between the Commission and the Member State during the preparation of operations in accordance with Articles 8 to 11a.

Article 5

Forms of assistance

1. Financial assistance under the Structural Funds, from the EIB and the other existing Community financial instruments shall be provided in a variety of forms that reflect the nature of the operations.

2. In the case of the Structural Funds and the FIFG, financial assistance may be provided principally in one of the following forms:

- (a) part-financing of operational programmes;
- (b) part-financing of a national aid scheme including repayments;
- (c) provision of global grants, as a general rule managed by an intermediary designated by the Member State in agreement with the Commission and allocated by the intermediary in the form of individual grants to final beneficiaries;
- (d) part-financing of suitable projects;
- (e) support for technical assistance, including the measures to prepare, appraise, monitor and evaluate operations, and pilot and demonstration projects.

With the exception of those referred to in (e), the forms of assistance undertaken on the Commission's initiative may be only those established by the Member State or the competent authorities designated by the Member State and submitted to the Commission by that Member State or any other body it may, should the need arise, designate to do so.

Acting by a qualified majority on a proposal from the Commission and in cooperation with the European Parliament, the Council may introduce other forms of assistance of the same type.

3. In the case of the EIB and the other existing financial instruments, each observing its own specific rules, financial assistance shall be provided, in particular, in one of the following forms:

- individual loans, global loans and framework loans or other forms of part-financing given investment projects or programmes,
- part-financing of technical assistance or of studies in preparation for operations,
- guarantees.

4. Community assistance shall in an appropriate way combine the assistance in the form of grants and loans referred to in paragraphs 2 and 3 in order to maximize the stimulus provided by the budgetary resources deployed, making use of existing financial engineering techniques.

5. An operational programme within the meaning of paragraph 2 (a) shall comprise a consistent series of multiannual measures which may be implemented through recourse to one or more Structural Funds, to one or more of the other existing financial instruments and to the EIB.

Where a form of assistance involves participation under more than one Structural Fund and/or more than one other financial instrument, it may be implemented in the form of an integrated approach, the details of which shall be laid down in the provisions referred to in Article 3 (5).

Assistance shall be undertaken on the initiative of the Member States or of the Commission in agreement with the Member State concerned.

Article 6

Prior appraisal, monitoring and *ex post* evaluation

1. Community operations shall be monitored to ensure that the commitments entered into as part of the objectives set out in Articles 130a and 130c of the

Treaty are effectively honoured. Such monitoring shall, where necessary, make it possible to adjust operations in line with requirements arising during implementation.

The Commission shall periodically inform the European Parliament and the Committees referred to in Article 17 as to the implementation of operations; it shall lay before those Committees the annual report referred to in the first subparagraph of Article 16.

2. In order to gauge their effectiveness, Community structural operations shall be the subject of prior appraisal, monitoring and *ex post* evaluation designed to appraise their impact with respect to the objectives set out in Article 1 and to analyse their effects on specific structural problems.

3. The procedure for appraisal, monitoring and evaluation of Community operations shall be established by the provisions referred to in Article 3 (4) and (5) and, in the case of the EIB, in the manner provided for in its Statute.

Article 7

Compatibility and checks

1. Measures financed by the Structural Funds or receiving assistance from the EIB or from another existing financial instrument shall be in conformity with the provisions of the Treaties, with the instruments adopted pursuant thereto and with Community policies, including those concerning the rules on competition, the award of public contracts and environmental protection and the application of the principle of equal opportunities for men and women.

2. Without prejudice to the financial Regulation, the provisions referred to in Article 3 (4) and (5) shall lay down harmonized rules for strengthening checks on structural operations. They shall be adjusted to reflect the special nature of the financial operations concerned. The procedures for carrying out checks on operations undertaken by the EIB shall be as set out in its Statute.

III. PROVISIONS RELATING TO THE SPECIFIC OBJECTIVES

Article 8

Objective 1

1. The regions covered by Objective 1 shall be regions at NUTS level II whose per capita GDP, on the basis of the figures for the last three years, is less than 75 % of the Community average.

Northern Ireland, the five new German *Länder*, east Berlin, and the French overseas departments, the

Azores, the Canary Islands and Madeira shall also be covered by this Objective, as shall other regions whose per capita GDP is close to that of the regions referred to in the first subparagraph and which have to be included within the scope of Objective 1 for special reasons.

Abruzzi shall be eligible for aid under Objective 1 for the period 1 January 1994 to 31 December 1995.

Exceptionally, in view of their unique adjacent position and their regional GDP at NUTS level III, the "arrondissements" of Avesnes, Douai and Valenciennes as well as Argyll and Bute, Arran, the Cambraes and western Moray shall also be covered by this Objective.

2. The list of regions concerned by Objective 1 is given in Annex I.

3. The list of regions shall be applicable for six years from 1 January 1994. Before the end of that period, the Commission shall review the list in good time so that the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, may establish a new list to apply for the following period.

4. The Member States concerned shall submit to the Commission their regional development plan. These plans shall include:

- a description of the current situation with regard to disparities and development gaps, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of Community structural assistance received and with regard to the evaluation results available,

- a description of an appropriate strategy to achieve the objectives referred to in Article 1, the regional development priorities selected and specific objectives, quantified where they lend themselves to quantification; a prior appraisal of the expected impact, including that on jobs, of corresponding operations with a view to ensuring that they yield medium-term economic and social benefits in keeping with the resources deployed,

- an appraisal of the environmental situation of the region concerned and an evaluation of the environmental impact of the strategy and operations referred to above in terms of sustainable development in agreement with the provisions of Community law in force; the arrangements made to associate the competent environmental authorities designated by the Member State in the preparation and implementation of the operations envisaged in the

plan and to ensure compliance with Community environmental rules,

- an indicative overall financial table summarizing the national and Community financial resources provided for and corresponding to each regional development priority adopted in the context of the plan, as well as an indication of the planned use of the assistance available under the Funds, from the EIB and the other financial instruments in implementing the plan.

The Member States may submit an overall regional development plan for all their regions included in the list referred to in paragraph 2, provided that such plan comprises the features listed in the first subparagraph.

Member States shall also submit the plans referred to in Article 10 for the regions concerned; the elements of those plans may also be included in the regional development plans of the regions concerned.

5. The Commission shall appraise the proposed plans and the other elements referred to in paragraph 4 to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. On the basis of all the plans referred to in paragraph 4, it shall establish, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community support framework for Community structural operations, in accordance with the procedure referred to in Article 17.

The Community support framework shall cover, in particular

- the development objectives, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation, and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support framework shall provide coordination of Community structural assistance towards those of the objectives referred to in Article 1 which may be pursued in a particular region.

The Community support framework may, if necessary, be revised and adjusted through the partnership defined in Article 4 (1), on the initiative of the Member State or of the Commission in agreement with the Member State, in the light of relevant new

information and of the results obtained during implementation of the operations concerned, including the results of monitoring and evaluation.

At the duly substantiated request of the Member State concerned, the Commission shall adopt distinct Community support frameworks for one or more of the plans referred to in paragraph 4.

6. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

7. Programming shall also cover operations under Objective 5 (a) to be implemented in the regions concerned, making a distinction between those which relate to agricultural structures and those which relate to fisheries structures.

Article 9

Objective 2

1. The declining industrial areas concerned by Objective 2 shall comprise regions, frontier regions or parts of regions (including employment areas and urban communities).

2. Subject to paragraph 4, the areas referred to in paragraph 1 must represent or belong to a NUTS level III territorial unit which satisfies all the following criteria:

- (a) the average rate of unemployment recorded over the last three years must have been above the Community average;
- (b) the percentage share of industrial employment in total employment must have equalled or exceeded the Community average in any reference year from 1975 onwards;
- (c) there must have been an observable fall in industrial employment compared with the reference year chosen in accordance with (b).

In addition, Community assistance may, subject to paragraph 4, also extend to:

- adjacent areas satisfying criteria (a), (b) and (c) as well as areas satisfying criteria (a), (b) and (c) that are adjacent to an Objective 1 region,
- urban communities with an unemployment rate at least 50% above the Community average which have recorded a substantial fall in industrial employment,
- areas which have recorded substantial job losses over the last three years or are experiencing or are threatened with such losses in industrial sectors of decisive importance for their economic development, including those losses brought about

by industrial changes and changes in production systems, with a consequent serious worsening of unemployment in those areas,

- areas especially urban areas, with severe problems linked to the regeneration of derelict industrial sites,
- other industrial or urban areas where the socio-economic impact of the restructuring of the fisheries sector, assessed on the basis of objective criteria, justifies such assistance.

In implementing the criteria defined above, the Commission will take account of how the national situations with respect to unemployment rate, industrialization rate and industrial decline compare with the Community average.

For the application of these criteria, Member States may also take as a reference basis the specific realities influencing the actual activity rate or employment rate of the population.

3. As soon as this Regulation has entered into force, and after considering the Community information relating to the provisions referred to in paragraph 2, the Member States concerned shall propose to the Commission on the basis of the provisions of the said paragraph and taking account of the concentration principle, the list of areas which in their view should benefit from assistance under Objective 2, and provide the Commission with all useful information to this end.

On the basis of this information and its overall assessment of the proposals submitted, taking into account the national priorities and situations, the Commission shall, in close consultation with the Member State concerned in accordance with the procedure provided for in Article 17, establish an initial list for three years of the areas referred to in paragraph 1. The Commission shall inform the European Parliament of that list.

4. In establishing that list and in defining the Community support framework referred to in paragraph 9, the Commission and the Member States shall seek to ensure that assistance is genuinely concentrated on the areas most seriously affected, at the most appropriate geographical level, taking into account the particular situation of the areas concerned. Member States shall supply to the Commission all information which might be of assistance to it in this task.

5. West Berlin shall be eligible for aid under this Objective for the first three-year period referred to in paragraph 6.

6. The list of eligible areas shall be reviewed by the Commission periodically in close consultation with

the Member State concerned. However, the assistance granted by the Community in respect of Objective 2 in the various areas listed shall be planned and implemented on a three-yearly basis.

7. Three years after the entry into force of the list referred to in paragraph 3, the criteria laid down in paragraph 2 may be altered by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

8. The Member States concerned shall submit their regional and social conversion plans to the Commission. Those plans shall include:

- a description of the current situation, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of Community structural assistance received and with regard to the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the conversion priorities selected for the areas concerned, quantifying the progress anticipated, where it lends itself to quantification, a prior appraisal of the expected impact, including that on jobs, of corresponding operations with a view to ensuring that they yield medium-term economic and social benefits in keeping with the resources deployed,
- an appraisal of the environmental situation of the area concerned and an evaluation of the environmental impact of the strategy and operations referred to above in terms of sustainable development in agreement with the provisions of Community law in force; the arrangements made to associate the competent environmental authorities designated by the Member State in the preparation and implementation of the operations envisaged in the plan and to ensure compliance with Community environmental rules,
- an indication of the planned use of assistance available under the Funds, from the EIB and the other financial instruments in implementing the plan.

9. The Commission shall examine the proposed plans to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. On the basis of these plans, it shall establish, through the partnership defined in Article 4 (1) and in agreement with the Member State concerned, the Community conversion support framework for Community structural operations, in accordance with the procedures referred to in Article 17.

The Community support framework shall cover in particular:

- the conversion objectives, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support framework may, if necessary, be revised and adjusted through the partnership defined in Article 4 (1), on the initiative of the Member State concerned or of the Commission in agreement with the Member State, in the light of relevant new information and of the results obtained during implementation of the operations concerned including, in particular, the results of monitoring and evaluation.

10. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

Article 10

Objectives 3 and 4

1. Objective 3

The Member States shall submit to the Commission plans for operations to combat long-term unemployment and to facilitate the integration into working life of young people and of persons exposed to exclusion from the labour market (Objective 3).

The plans shall include:

- a description of the current situation, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of Community structural assistance received and with regard to the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the priorities selected for the implementation of Objective No 3, quantifying the progress anticipated where this lends itself to quantification; a prior appraisal of the expected impact, including that on jobs, of the operations involved in order to show that they yield medium-term social and economic benefits in keeping with the financial resources deployed,
- an indication of the use to be made of assistance available under the ESF — where appropriate, in

conjunction with assistance from other existing Community financial instruments — in implementing the plan.

The Commission shall establish, for each Member State and for the individual plans submitted to it, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community support framework for the attainment of Objective 3, in accordance with the procedures set out in Article 17.

2. Objective 4

The Member States shall submit to the Commission plans for operations designed to facilitate the adaptation of workers of either sex to industrial change and to changes in production systems (Objective 4).

These plans shall include:

- a description of the current situation and of likely changes in jobs and occupations, stressing needs in terms of initial and further vocational training, taking account of the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the priorities selected for the attainment of Objective 4, quantifying the progress anticipated where it lends itself to quantification, prior appraisal of the expected impact, including that on jobs, of the operations involved with a view to ensuring that the medium-term social and economic benefits are in keeping with the financial resources deployed,
- measures adopted to involve the competent authorities and bodies designated by the Member State at the appropriate levels in the preparation and implementation of operations featuring in the plan,
- an indication of the use to be made of assistance available under the ESF — where appropriate, in conjunction with assistance from the EIB or other existing Community financial instruments — in implementing the plan.

The Commission shall establish, for each Member State and for the individual plans submitted to it, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community support framework for the attainment of Objective 4, in accordance with the procedures set out in Article 17.

3. Common provisions

3.1. The plans shall distinguish between the information relating to regions covered by

Objective 1 and the rest of the territory. The information relating to Objective 1 regions may also be included in the regional development plans referred to in Article 8 (4).

- 3.2. For the presentation of the plans relating to Objectives 3 and 4, the Member States may also use as a reference basis the specific realities influencing the actual activity rate or employment rate of the population.
- 3.3. The Commission shall examine the proposed plans to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. The Commission shall draw up the Community support frameworks in agreement with the Member State concerned.

Each Community support framework shall cover in particular:

- the objectives planned, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation, and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support framework may, if necessary, be revised and adjusted through the partnership defined in Article 4 (1) on the initiative of the Member State or of the Commission in agreement with the Member State in the light of relevant new information and of the results obtained during implementation of the operations concerned including, in particular, of the results of monitoring and evaluation.

- 3.4. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

Article 11

Objective 5 (a)

The arrangements for the implementation of operations connected with the adaptation of agricultural and fisheries structures (Objective 5 (a)) shall be decided within the framework of the provisions referred to in Article 3 (4) and (5).

Article 11a

Objective 5 (b)

1. The rural areas outside Objective 1 regions that may receive Community assistance under Objective 5 (b) are those which have a low level of socio-economic development assessed on the basis of GDP per inhabitant and also satisfy at least two of the following three criteria:

- (a) high share of agricultural employment in total employment;
- (b) low level of agricultural income, in particular as expressed in terms of agricultural value added per agricultural work unit (AWU);
- (c) low population density and/or a significant depopulation trend.

Assessment of the eligibility of areas according to the above criteria shall take into account socio-economic parameters which indicate the seriousness of the general situation in the areas concerned, and how it is developing.

2. The Community assistance may also be extended to other rural areas with low levels of socio-economic development that are outside Objective 1 regions if they meet one or more of the following criteria:

- the peripheral nature of areas or islands in relation to major centres of economic and commercial activity in the Community,
- the sensitivity of the area to developments in agriculture, especially in the framework of the reform of the common agricultural policy, assessed on the basis of the trend in agricultural incomes and the size of the agricultural labour force;
- the structure of agricultural holdings and the age structure of the gainfully employed agricultural labour force,
- the pressures exerted on the environment and on the countryside,
- the situation of areas within mountain or less-favoured areas classified pursuant to Article 3 of Directive 75/268/EEC (*),
- the socio-economic impact on the area, as measured by objective criteria, of the restructuring of the fisheries sector.

3. As soon as this Regulation has entered into force, and after considering the Community information relating to the provisions referred to in

paragraphs 1 and 2, the Member States concerned shall propose to the Commission, on the basis of the provisions of the said paragraphs and taking account of the concentration principle, the list of areas which in their view should benefit from assistance under Objective 5 (b), and provide the Commission with all useful information to this end.

On the basis of this information and its overall assessment of the proposals submitted, taking into account the national priorities and situations, the Commission shall, in close consultation with the Member State concerned and in accordance with the procedure laid down in Article 17, establish the list of eligible areas. The Commission shall inform the European Parliament of this list.

4. In selecting rural areas and in programming assistance from the Funds, the Commission and the Member States shall take care to ensure that assistance is effectively concentrated on areas suffering from the most serious rural development problems. Member States shall supply to the Commission all information which might be of assistance to it in this task.

5. The Member States concerned shall submit their rural development plans to the Commission. Those plans shall include:

- a description of the current situation, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of the Community structural assistance received and taking account of the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the rural development priorities selected for the areas concerned, specific objectives, quantified, where they lend themselves to quantification, a prior appraisal of the expected impact, including that on jobs, of corresponding operations with a view to ensuring that they yield medium-term economic and social benefits in keeping with the resources deployed,
- an assessment of the environmental situation of the region concerned and an evaluation of the environmental impact of the strategy and operations referred to above in accordance with the principles of sustainable development in agreement with the provisions of Community law in force; the arrangements made to associate the competent environmental authorities designed by the Member State in the preparation and implementation of the operations foreseen in the plan and to ensure compliance with Community rules concerning the environment,

- an indication of the planned use of assistance available under the Funds, from the EIB and the other financial instruments in implementing the plan,
- any link with the consequences of reform of the common agricultural policy and the common fisheries policy.

6. The Commission shall examine the proposed plans to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. It shall establish, on the basis of those plans, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community rural development support framework for Community structural assistance in accordance with the procedures referred to in Article 17.

The Community support framework shall cover in particular:

- the rural development objectives, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation, and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support frameworks may, if necessary, be revised and adjusted, through the partnership provided for in Article 4 (1), on the initiative of the Member State concerned or of the Commission in agreement with the Member State in the light of relevant new information and of the results obtained during implementation of the operations concerned, including in particular the results of monitoring and evaluation.

The Community support frameworks under Objective 5 (b) may repeat for information the details of the operations concerning the adjustment of agricultural structures under Objective 5 (a) to be implemented in the areas eligible under Objective 5 (b).

7. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

(*) OJ No L 128, 19. 5. 1975, p. 1. Directive as last amended by Directive 82/786/EEC (OJ No L 327, 24. 11. 1982, p. 19).

IV. FINANCIAL PROVISIONS

*Article 12***Resources and concentration**

1. The resources available for commitment from the Structural Funds in the FIFG shall be ECU 141 471 million at 1992 prices for the period 1994 to 1999.

The annual breakdown of these resources is shown in Annex II.

2. A considerable proportion of budgetary resources shall be concentrated on the regions whose development is lagging behind which are covered by Objective 1.

The resources available for commitment for these regions shall be ECU 96 346 million at 1992 prices for the period 1994 to 1999.

The annual breakdown of these resources is shown in Annex II.

All operations under Objectives 1 to 5 to assist the regions covered by Objective 1 shall be taken into account for this purpose.

3. For the four Member States eligible for the cohesion financial instrument, the increase in commitment appropriations for the Structural Funds must permit a doubling of commitments in real terms under Objective 1 and the cohesion financial instrument between 1992 and 1999.

4. The Commission shall, using transparent procedures, make indicative allocations by Member State for each of the Objectives 1 to 4 and 5 (b) of the Structural Fund commitment appropriations taking full account, as previously, of the following objective criteria: national prosperity, regional prosperity, population of the regions, and the relative severity of structural problems, including the level of unemployment and, for the appropriate Objectives, the needs of rural development. These criteria will be appropriately weighted in the allocation of resources.

In addition, Objective 5 (a) except for those fields covered by Objective 1 shall receive an allocation based principally on continuity related to the degree of utilization of resources during the preceding programming period and on the specific structural needs of agriculture and fisheries as they are perceived.

5. For the period referred to in paragraph 1, 9% of the commitment appropriations for the Structural Funds shall be devoted to funding assistance undertaken on the initiative of the Commission in accordance with Article 5 (5).

6. For the purpose of their inclusion in the general budget of the European Communities, the sums indicated in paragraphs 1 and 2 and in Annex II shall be amended before each annual budgetary procedure to reflect price changes in the Community.

*Article 13***Differentiation of rates of assistance**

1. The Community contribution to the financing of operations shall be differentiated in the light of the following:

- the gravity of the specific, in particular regional or social, problems to be tackled by the operations,
- the financial capacity of the Member State concerned, taking into account in particular the relative prosperity of the State and the need to avoid excessive increases in budgetary expenditure,
- the special importance attaching to measures from the Community viewpoint,
- the special importance attaching to measures from the regional and national viewpoint,
- the particular characteristics of the types of measure proposed.

2. Such differentiation shall take account of the planned link between the grants and loans deployed, as referred to in Article 5 (4).

3. The Community contribution granted by the Funds and the FIFG in respect of the various objectives listed in Article 1 shall be subject to the following ceilings:

- a maximum of 75% of the total cost and, as a general rule, at least 50% of public expenditure in the case of measures carried out in the regions eligible for assistance under Objective 1. Where the regions are located in a Member State concerned by the cohesion financial instrument, the Community contribution may, in exceptional and duly justified cases, rise to a maximum of 80% of the total cost and to a maximum of 85% of the total cost for the outermost regions, as well as for the outlying Greek islands which are under a handicap as far as distance is concerned,
- a maximum of 50% of the total cost and, as a general rule, at least 25% of public expenditure in the case of measures carried out in the other regions.

The minimum rates of assistance laid down in the first subparagraph shall not apply to revenue-bearing investment.

4. For the preparatory studies and technical assistance measures undertaken on the initiative of the Commission, financing by the Community may in exceptional and duly justified cases amount to 100% of total cost.

5. The arrangements for the implementation of this Article, including those concerning public funding of the operations concerned, and the rates applied to revenue-bearing investment, shall be laid down in the provisions referred to in Article 3 (4) and (5).

V. OTHER PROVISIONS

Article 14

Combination and overlapping of assistance

1. For any given period, an individual measure or operation may benefit from assistance from only one Structural Fund or the FIFG at a time.
2. An individual measure or operation may benefit from assistance from a Structural Fund or other financial instrument in respect of only one of the Objectives listed in Article 1 at a time, unless otherwise permitted by the provisions referred to in Article 3 (4) and (5).
3. Any territory may be eligible for assistance under only one of Objectives 1, 2 or 5 (b).

Article 15

Transitional provisions

1. This Regulation shall not affect multiannual operations, including the adjustment of Community support frameworks and forms of assistance, approved by the Council or by the Commission on the basis of the existing rules governing the Structural Funds applying before the entry into force of this Regulation.
2. Applications for assistance from the Structural Funds towards operations which are submitted under the provisions applying before the entry into force of this Regulation shall be considered and approved by the Commission on the basis of those provisions.
3. The provisions referred to in Article 3 (4) and (5) shall lay down specific transitional provisions relating to the implementation of this Article, including provisions to ensure that aid to Member States is not interrupted pending the establishment of the plans and operational programmes in accordance with the new system and that the grant of assistance for projects granted assistance before 1 January 1989

shall be finally concluded no later than 30 September 1995.

Article 16

Reports

Within the framework of Articles 130a and 130b of the Treaty, before 1 November of each year the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Regulation during the preceding year.

In that report, the Commission shall in particular indicate what progress has been made towards achieving the objectives listed in Article 1 and in concentrating assistance within the meaning of Article 12.

The Commission shall submit a report at three-yearly intervals to the European Parliament, the Council and the Economic and Social Committee on the progress made towards economic and social cohesion and the contribution thereto made by the Funds, the FIFG, the cohesion financial instrument, the EIB and the other financial instruments. That report shall, if necessary, be accompanied by appropriate proposals with regard to Community operations and policies affecting economic and social cohesion. The first such report shall be drawn up no later than 31 December 1996.

Article 17

Committees

1. In implementing this Regulation, the Commission shall be assisted by four committees dealing respectively with:

- Objectives 1 and 2:
advisory committee composed of representatives of the Member States,
- Objectives 3 and 4:
committee under Article 124 of the Treaty,
- Objective 5 (a):
 - management committee composed of representatives of the Member States (adjustment of agricultural structures),
 - management committee composed of representatives of the Member States (adjustment of fisheries structures),
- Objective 5 (b):
management committee referred to under Objective 5 (a) first sub-indent.

2. In implementing assistance undertaken on its own initiative in accordance with Article 5 (5), last subparagraph, the Commission shall be assisted by a

management committee composed of representatives of the Member States.

3. Provisions setting out the arrangements for the operation of the committees referred to in paragraph 1 and measures concerning the tasks of those committees in the framework of management of the Funds shall be adopted in accordance with Article 3 (4) and (5), and the last subparagraph of Article 3a.

VI. FINAL PROVISIONS

Article 18

Implementation

The Commission shall be responsible for the implementation of this Regulation.

Article 19

Review clause

On a proposal from the Commission, the Council shall re-examine this Regulation before 31 December 1999.

It shall act on the proposal in accordance with the procedure laid down in Article 130d of the Treaty.'

Article 2

Entry into force

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 20 July 1993.

For the Council

The President

W. CLAES

ANNEX I

Regions concerned by Objective 1

BELGIUM:	Hainaut
GERMANY:	Brandenburg, Mecklenburg-Western Pomerania, east-Berlin, Saxony, Saxony-Anhalt, Thuringia
GREECE:	the entire country
SPAIN:	Andalucía, Asturias, Cantabria, Castilla y León, Castilla-La Mancha, Ceuta y Melilla, Comunidad Valenciana, Extremadura, Galicia, Canary Islands, Murcia
FRANCE:	French overseas departments, Corsica, the 'arrondissements' of Avesnes, Douai and Valenciennes
IRELAND:	the entire country
ITALY:	Abruzzi (1994 to 1996), Basilicata, Calabria, Campania, Molise, Apulia, Sardinia, Sicily
NETHERLANDS:	Flevoland
PORTUGAL:	the entire country
UNITED KINGDOM:	Highlands and Islands Enterprise area, Merseyside, Northern Ireland

ANNEX II

Commitment appropriations for the period 1994 to 1999

(ECU million at 1992 prices)

	1994	1995	1996	1997	1998	1999	1994 to 1999
Structural Funds and FIG	20 135	21 480	22 740	24 026	25 690	27 400	141 471
of which: Objective 1 regions	13 220	14 300	15 330	16 396	17 820	19 280	96 346

COUNCIL REGULATION (EEC) No 2082/93

of 20 July 1993

amending Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 130e and 153 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Regulation (EEC) No 2081/93 ⁽⁴⁾ amends Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁵⁾; whereas Regulation (EEC) No 4253/88 should therefore be amended ⁽⁶⁾;

Whereas, under Article 3a of Regulation (EEC) No 2052/88, the provisions of that Regulation governing the Structural Funds and the provisions necessary for the coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank (EIB) and the other existing financial instruments apply to the financial instrument for fisheries guidance (FIFG);

Whereas the coordination provided for in Regulation (EEC) No 4253/88 should therefore be extended to the FIFG and to the cohesion financial instrument; whereas coordination through the Communities' budgetary resources can also concern the measures accompanying the reform of the common agricultural policy (CAP), the framework programmes for research and technological development, the trans-European networks and the economic restructuring of the countries of central and eastern Europe; whereas the economic and social effectiveness of Community action depends on coherence,

particularly with the framework programmes for research and technological development and education and training programmes;

Whereas the Member States should submit their development plans as soon as possible in order not to delay the implementation of structural assistance from 1 January 1994;

Whereas, in order to simplify and speed up programming procedures, there should be provision for the Commission to adopt simultaneously the Community support frameworks and the forms of assistance submitted largely in the form of a limited number of operational programmes at the same time as development plans; whereas for the same reason there should be provision for the plan and the application for assistance to be presented in a single document and for the Community support framework to be adopted and assistance granted through a single Commission decision;

Whereas, in application of the principle of subsidiarity, and without prejudice to the Commission's powers, particularly its responsibility for the management of the Community's financial resources, implementation of the forms of assistance contained in the Community support frameworks should be primarily the responsibility of the Member States at the appropriate territorial level according to the specific needs of each Member State;

Whereas the principle of additionality and the criteria and procedures for its verification should be defined;

Whereas measures of major importance to the Community undertaken at the initiative of the Commission have an important role to play in achieving the general objectives of Community structural action referred to in Article 1 of Regulation (EEC) No 2052/88; whereas such initiatives should primarily promote cross-frontier, transnational and inter-regional cooperation and aid to the outermost regions, in accordance with the principle of subsidiarity;

Whereas, in order to increase the flexibility of Community structural assistance, there should be provision for assistance undertaken at the initiative of the Commission in the context of Objectives 1, 2 and 5 (b) to concern exceptionally areas other than those eligible under those Objectives; whereas the question of

⁽¹⁾ OJ No C 118, 28. 4. 1993, p. 33.

⁽²⁾ Opinion delivered on 22 June 1993 (not yet published in the Official Journal) and Decision of 14 July 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁽⁴⁾ See page 5 of this Official Journal.

⁽⁵⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁶⁾ OJ No L 374, 31. 12. 1988, p. 1.

cross-frontier cooperation with Community priority regions may also be addressed by the Phare programme, taking account of complementary support under the Community Structural Funds;

Whereas, in order to minimize delays in financial flows, the time allowed for the Commission to pay financial assistance to the Member State and for the Member State to pay that assistance to the final beneficiaries should be laid down, so that the funds are available to the final beneficiaries in good time for them to carry out their measures;

Whereas the role and powers of the monitoring committees should be laid down;

Whereas there should be greater transparency in the implementation of structural assistance; whereas, to that end, care should be taken to ensure compliance with Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment ⁽¹⁾; whereas it is appropriate that projects benefiting from Community assistance should be specified when published in a notice in the *Official Journal of the European Communities* under the rules relating to the award of public contracts;

Whereas appraisal and evaluation are the responsibility both of the Member States and of the Commission in the framework of partnership; whereas, in addition, to enhance the effectiveness and financial viability of Community assistance, *ex ante* appraisal, monitoring and *ex post* evaluation should be strengthened;

Whereas it is appropriate to lay down the detailed transitional provisions including provisions to ensure that aid to Member States is not interrupted pending the establishment of the plans and operational programmes in accordance with the new system,

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 33 of Regulation (EEC) No 4253/88 shall be replaced by the following:

I. COORDINATION

Article 1

General provisions

Pursuant to Regulation (EEC) No 2052/88, the Commission shall, in a manner consistent with

partnership, ensure coordination of the activities of the different Funds and the FIG as between themselves and with the operations of the EIB and the other existing financial instruments.

Article 2

Coordination between the Funds and the FIG

Coordination between the activities of the various Funds and the FIG shall be carried out in particular through:

- Community support frameworks,
- multiannual budget forecasts,
- where advisable, the implementation of integrated forms of assistance,
- prior appraisal, monitoring and *ex post* evaluation of operations under the Funds carried out in connection with a single objective and of those carried out in connection with a number of objectives in the same territory.

Article 3

Coordination between the Funds, the EIB and the other existing financial instruments

1. In implementing the objectives referred to in Article 1 of Regulation (EEC) No 2052/88, the Commission shall ensure, within the framework of the partnership, coordination and consistency between assistance from the Funds and assistance provided:

- by the European Coal and Steel Community (ECSC) in the form of re-adaptation aids, loans, interest subsidies or guarantees,
- by the EIB, the New Community Instrument and the European Atomic Energy Community (Euratom) in the form of loans and guarantees,
- from resources from the Community budget allocated in particular:
 - to other actions for structural purposes,
 - to the cohesion financial instrument.

Such coordination shall be carried out in keeping with the EIB's own powers and responsibilities and with the objectives of the other instruments concerned.

2. The Commission shall associate the EIB in the use of the Funds or the other existing financial instruments with a view to the part-financing of investments that are eligible for financing by the EIB in accordance with its Statute.

Article 4

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⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

II. PLANS

Article 5

Scope and content

1. Subject to the guidelines laid down in this Article, plans submitted in connection with Objectives 1 to 4 and 5 (b) shall be drawn up at the geographical level deemed to be most appropriate. They shall be prepared by the competent national, regional or other authorities designated by the Member State and shall be submitted by the Member State to the Commission.

Plans submitted in connection with Objective 1 shall, as a general rule, cover one region at NUTS (Nomenclature of Territorial Units for Statistics) level II. However, in implementation of the second subparagraph of Article 8 (4) of Regulation (EEC) No 2052/88, Member States may submit a plan for more than one of their regions included in the list referred to in paragraph 2 of that Article, provided that such plans comprise the features listed in the first subparagraph of the said paragraph 4.

Plans submitted in connection with Objectives 2 and 5 (b) shall normally cover one or more regions at a NUTS level III.

Member States may submit plans covering a wider territory than that of eligible regions or areas, provided that they distinguish between measures in eligible regions or areas and measures elsewhere.

2. For regions concerned by Objective 1, the regional development plans shall include measures to the conversion of declining industrial areas and rural development, the adaptation of agricultural and fisheries structures, together with employment and vocational training measures under Objective 1 and, where appropriate, those in connection with Objectives 3 and 4.

Regional and social conversion plans submitted in connection with Objective 2 and rural development plans submitted in connection with Objective 5 (b) shall also include employment and vocational training measures other than those covered by plans submitted in connection with Objectives 3 and 4.

Plans submitted in connection with Objectives 3 and 4 shall distinguish between expenditure in respect of the regions covered by Objectives 1 and, if possible, 2 and 5 (b) and expenditure in respect of other regions.

In the plans, Member States shall indicate the particulars relating to each Fund, including the volumes of assistance requested. In order to expedite the examination of applications and the implementation of action, they may include in their

plans, applications for assistance for operational programmes and other forms of assistance.

Member States may submit in a single programming document the information required for each of the plans and referred to in Articles 8 to 10 and 11a of Regulation (EEC) No 2052/88 and the information required pursuant to Article 14 (2).

3. Member States shall ensure, when the plans are drawn up, that plans relating to the same geographical area are mutually consistent.

4. Member States shall ensure that the plans take account of Community policies.

Article 6

Duration and timetable

Each plan shall as a general rule cover a period of three or six years. The first programming period shall begin on 1 January 1994. As a general rule, the plans may be revised on an annual basis and in the event of significant changes in the socio-economic situation and the labour market.

Unless otherwise agreed with the Member State concerned, plans in respect of Objectives 1, 3 and 4 shall be submitted not later than three months after the entry into force of this Regulation. Plans in respect of Objectives 2 and 5 (b) shall be submitted not later than three months after the establishment of the list of eligible areas under the objectives concerned.

Article 7

Preparation

1. The Commission may provide Member State at their request with any technical assistance necessary in the preparation of plans.

2. The plans shall contain information making it possible to assess the link between structural action and the Member State's economic, social and where appropriate, regional policies.

III. COMMUNITY SUPPORT FRAMEWORKS

Article 8

Preparation, scope and content

1. The Community support frameworks relating to Objectives 1 to 4 and 5 (b) shall be drawn up on the

basis of the plans in agreement with the Member State concerned within the framework of the partnership and shall be established by decision of the Commission in accordance with the procedures laid down in Title VIII. The EIB shall also be involved in the preparation of the Community support frameworks.

2. A Community support framework shall cover a period of three or six years.

3. Each Community support framework shall include:

- a statement of the priorities for joint Community and national action in relation to the objectives referred to under Article 1 of Regulation (EEC) No 2052/88, their specific objectives, quantified where they lend themselves to quantification, an appraisal of the expected impact, including with regard to employment, together with information on their consistency with the economic, social and, where appropriate, regional policies of the Member State concerned,
- an outline of the assistance which is not decided at the same time as the Community support framework including, for operational programmes, their specific objectives and the main types of measure involved,
- an indicative financing plan specifying the financial allocations envisaged for the various forms of assistance and the duration thereof, including those of the Funds, the EIB and the other existing financial instruments provided for in Article 3 (1), where they contribute directly to the financing plan concerned,
- the procedures for monitoring and evaluation,
- the procedures for verifying additionality and an initial evaluation of the latter; appropriate information concerning the transparency of the relevant financial flows, in particular from the Member State concerned to the recipient regions,
- for Objectives 1, 2 and 5 (b), the arrangements for associating the environmental authorities designated by the Member States in the implementation of the Community support framework,
- where appropriate, information on the means available for any studies or necessary technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned.

Article 9

Additionality

1. In order to achieve a genuine economic impact, the Structural Funds and the FIFG appropriations

allocated, in each Member State to each of the objectives under Article 1 of Regulation (EEC) No 2052/88 may not replace public expenditure on structural or comparable expenditure undertaken by the Member State in the whole of the territory eligible under an objective.

2. For this purpose, in establishing and implementing the Community support frameworks, the Commission and the Member State concerned shall ensure that the Member State maintains, in the whole of the territory concerned, its public structural or comparable expenditure at least at the same level as in the previous programming period, taking into account, however, the macroeconomic circumstances in which the funding takes place, as well as a number of specific economic circumstances, namely privatizations, an unusual level of public structural expenditure undertaken in the previous programming period and business cycles in the national economy.

The Commission and the Member States shall also agree, in establishing the Community support frameworks, the arrangements for verifying additionality.

3. To permit verification of the principle of additionality, the Member State shall provide the relevant financial information to the Commission at the time of the submission of the plans and regularly during the implementation of the Community support frameworks.

Article 10

Approval and implementation

1. Unless otherwise agreed with the Member State concerned, the Commission shall take a decision approving the Community support framework not later than six months after receiving the relevant plan or plans.

When adopting its decision on the Community support framework, the Commission shall also approve, in accordance with Article 14 (3), applications for assistance submitted at the same time as the plans in so far as they include the information requested under Article 14 (2).

If the Member State submits a single programming document containing all the information referred to in the last subparagraph of Article 5 (2), the Commission shall adopt a single decision in a single document covering the points referred to in Article 8 (3) and the assistance from the Funds referred to in the last subparagraph of Article 14 (3).

2. The Commission decision on the Community support framework shall be sent as a declaration of

intent to the Member State. The decision shall be published in the *Official Journal of the European Communities*. At the request of the European Parliament, the Commission shall transmit to it this decision and the Community support framework which it approves, for information.

The Commission and the Member States shall ensure that measures accounting for at least two-thirds of assistance from the Funds during the first year of the Community support framework are approved by the Commission within two months of adoption of its decision on the Community support framework.

Article 11

Community initiatives

1. In accordance with Article 5 (5) of Regulation (EEC) No 2052/88, the Commission may, on its own initiative and in accordance with the procedures provided for in Title VIII, and after having informed the European Parliament accordingly, decide to propose to the Member States that they submit applications for assistance in respect of measures of significant interest to the Community. Any assistance approved pursuant to this provision shall be reflected in the establishment or revision of the relevant Community support framework.

For operations of transnational interest, pursuant to the previous subparagraph, two or more Member States may, on their own initiative or at the invitation of the Commission, submit a single application for assistance. In response to these applications the Commission may, in consultation with the Member States concerned, take a single decision granting aid for all these Member States.

2. For a limited part of the appropriations available, the forms of assistance approved under paragraph 1 in the context of the priority Objectives 1, 2 and 5 (b) may cover areas other than those under Articles 8, 9 and 11a of Regulation (EEC) No 2052/88.

Article 12

Forms of assistance

Assistance covered by a Community support framework shall be provided predominantly in the form of a limited number of operational programmes.

Article 13

Integrated approach

1. At the initiative of a Member State, or of the Commission pursuant to Article 11 and in agreement

with the Member State concerned, assistance shall be implemented in the form of an integrated approach if:

- (a) the programme involves financing by more than one Fund or at least one Fund and one financial instrument other than a loan instrument;
- (b) the measures to be financed by different Funds or financial instruments are mutually reinforcing and significant benefits are likely to accrue from close coordination between all the parties involved;
- (c) the appropriate administrative structures are provided at national, regional and local level in the interests of integrated implementation of the assistance.

2. The desirability of implementing measures on the basis of an integrated approach shall be considered at the time a Community support framework is established or revised.

3. In the implementation of integrated approaches, the Commission shall ensure that Community assistance is provided in the most effective manner, taking into account the special coordination effort required.

IV. ASSISTANCE FROM THE FUNDS

Article 14

Processing of applications for assistance

1. Applications for assistance from the Structural Funds and the FIFG, with the exception of the technical assistance measures referred to in Article 5 (2) (e) of Regulation (EEC) No 2052/88 and undertaken at the initiative of the Commission, shall be prepared by the Member State or by the competent national, regional, local or other authorities designated by it and shall be submitted to the Commission by the Member State or by any body it may designate to do so. Each application shall relate mainly to the forms of assistance provided for in Article 5 of that Regulation.

2. Applications shall contain the information the Commission needs in order to assess them where this is not already included in the plans, including a description of the proposed measure, its scope, including geographical coverage, and specific objectives. Applications shall also include the results of prior appraisal of the medium-term economic and social benefits of the proposed measures commensurate with the resources to be deployed, the bodies responsible for implementation, the proposed beneficiaries and the proposed timetable and financing plan, together with any other information necessary to

verify that the measure concerned is compatible with Community legislation and policies.

3. The Commission shall examine applications with a view in particular to:

- assessing the conformity of the proposed operations and measures with the relevant Community legislation and, where appropriate, with the relevant Community support framework,
- assessing the contribution of the proposed operation to the achievement of its specific objectives and, in the case of an operational programme, the consistency of the constituent measures,
- checking that the administrative and financial mechanisms are adequate to ensure effective implementation,
- determining the precise arrangements for providing assistance from the Fund or Funds concerned on the basis, where appropriate, of the information already given in any relevant Community support framework.

The Commission shall decide on assistance from the Funds and the FIGF, provided that the requirements of this Article are fulfilled, as a general rule within six months of receipt of the application. A single Commission decision shall be taken in respect of assistance from all the Funds and other existing financial instruments contributing to the financing of assistance, including assistance established in the form of an integrated approach.

4. The respective commitments of the partners, in the framework of an agreement within the partnership, shall be reflected in the Commission's decisions to grant assistance.

Article 15

Eligibility

1. Subject to Article 33, expenditure in respect of measures covered by Objectives 1 to 4 and 5 (b) shall be eligible for financial assistance from the Structural Funds only if the measures in question come within the relevant Community support framework.

2. Subject to Article 33, expenditure may not be considered eligible for assistance from the Funds if incurred before the date on which the corresponding application reaches the Commission.

Article 16

Specific provisions

1. In the case of global grants, the intermediaries who shall be designated by the Member State

concerned in agreement with the Commission must provide appropriate guarantees of solvency and have the necessary administrative capability to manage the operations envisaged by the Commission. The intermediaries shall also be selected in the light of the particular situation in the Member States or areas concerned. Without prejudice to Article 23, the management of global grants shall be subject to control by the competent authorities designated by the Member States.

2. The Funds may provide financial assistance towards expenditure in respect of major projects, i. e. those the total cost of which taken into account in determining the amount of Community assistance is, as a general rule, greater than ECU 25 million for infrastructure investments or greater than ECU 15 million for productive investments.

3. In addition to similar assistance connected with the operations of the various Funds, the Commission may, for up to 0,3% of the Funds' total allocation, finance studies and technical assistance linked to the joint or coordinated deployment of the Structural Funds, the EIB and the other financial instruments:

- in preparation for the establishment of plans,
- with a view to assessing the impact and effectiveness of assistance provided under the relevant Community support framework,
- in relation to integrated operational programmes.

V. DIFFERENTIATION OF COMMUNITY ASSISTANCE

Article 17

Financial contribution from the Funds

1. Pursuant to Article 13 (5) of Regulation (EEC) No 2052/88, the financial contribution of the Funds to the financing of measures covered by Objectives 1 to 4 and 5 (b) shall be laid down by the Commission, within the framework of the partnership, on the basis of Article 13 (1) of Regulation (EEC) No 2052/88, within the limits laid down by Article 13 (3) of the said Regulation and in accordance with the procedures provided for in that Article.

2. The financial contribution from the Funds shall be calculated in relation to either the total eligible cost of, or the total public or similar eligible expenditure (national, regional or local, and Community) on, each measure (operational programme, aid scheme, global grant, project, technical assistance, study).

3. Where the measure concerned entails the financing of revenue-generating investments, the Commission shall determine, within the framework of the partnership, the contribution from the Funds or these investments, in compliance with the provisions of Article 13 (3) of Regulation (EEC) No 2052/88 and on the basis of the criteria referred to in paragraph 1 of that Article, taking account of, among their intrinsic characteristics, the size of the gross self-financing margin which would normally be expected for the class of investments concerned in the light of the macroeconomic circumstances in which the investments are to be implemented, and without there being any increase in the national budget effort as a result of contribution by the Fund.

In any event, in connection with the development effort in the regions concerned, the contribution from the Funds to investments in enterprises may not exceed 50 % of the total cost in the regions covered by Objective 1 and 30 % of the total cost in the other regions.

4. The contribution of the Funds for individual measures forming part of operational programmes may be differentiated in accordance with agreements to be concluded within the framework of the partnership.

Article 18

Combination of grants and loans

The combination of loans and grants referred to in Article 5 (4) of Regulation (EEC) No 2052/88 shall be determined in conjunction with the EIB when the Community support framework is being established. It shall take account of the balance in the proposed financing plan, the contribution from the Funds established in accordance with Article 17 and the development objectives pursued.

VI. FINANCIAL PROVISIONS

Article 19

General provisions

1. Financial assistance from the Structural Funds shall be subject to the relevant rules applicable to the Funds under the Financial Regulation.
2. The financial assistance to be granted in respect of specific measures undertaken in implementing a Community support framework shall be consistent with the financing plan laid down in that support framework.
3. In order to avoid administrative delays at the end of the year, Member States shall ensure that request for payments are, as far as possible, submitted in accordance with a balanced schedule throughout the year.

Article 20

Commitments

1. Budgetary commitments shall be made on the basis of the Commission decisions approving the measures concerned. They shall be valid for a period depending on the nature of the measures and on the specific conditions for their implementation.

2. Commitments in respect of measures to be carried out over a period of two or more years shall, as a general rule, and subject to the provisions of paragraph 3, be effected in annual instalments. The commitments in connection with the first annual instalment shall be made when the decision approving the measure is adopted by the Commission.

Commitments in connection with subsequent instalments shall be based on the financing plan for the initial or revised measure concerned and on the progress made in implementing it.

3. For measures to be carried out over a period of less than two years or, subject to available funding, where the Community assistance granted is less than ECU 40 million, the total amount of Community assistance shall be committed when the Commission adopts the decision approving the measure.

Article 21

Payments

1. Payments of financial assistance shall be made in accordance with the corresponding budgetary commitments to the national, regional or local authority or body designated for the purpose in the application submitted through the Member State concerned as general rule within two months from receipt of an acceptable application. They may take the form either of advances or of final payments in respect of expenditure actually incurred. For measures to be carried out over a period of two or more years payments shall relate to the annual instalments of commitments referred to in Article 20 (2).

2. The advance made following each commitment may be up to 50 % of the amount committed, taking into account the nature of the measure concerned.

3. A second advance such that the sum of the two advances does not exceed 80 % of the commitment shall be made after the responsible body has certified that at least half of the first advance has been used up and that the measure is progressing at a satisfactory rate and in accordance with the objectives laid down.

The payments shall be made to the final beneficiaries without any deduction or retention which could reduce the amount of financial assistance to which they are entitled.

4. Payment of the balance in respect of each commitment shall be conditional on:

- submission to the Commission by the designated authority or body referred to in paragraph 1 of a request for payment within six months of the end of the year concerned or of completion in practice of the operation concerned,
- submission to the Commission of the relevant reports referred to in Article 25 (4),
- transmission by the Member State to the Commission of a certificate confirming the information contained in the request for payment and the reports.

5. Member States shall designate the authorities empowered to issue the certificates referred to in paragraphs 3 and 4 and shall ensure that the beneficiaries receive the advances and payments as soon as possible, and as a general rule within three months of receipt of the appropriations by the Member State and provided that the beneficiaries' applications fulfil the conditions necessary for payment to be made.

6. In the case of studies and innovation schemes undertaken on its own initiative, the Commission shall determine the appropriate payment procedures.

Article 22

Use of the ecu

Commission decisions, commitments and payments shall be denominated and carried out in ecus in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII.

This Article shall be applicable as soon as the Commission decision referred to in the first subparagraph has been adopted.

Article 23

Financial control

1. In order to guarantee completion of operations carried out by public or private promoters, Member States shall take the necessary measures in implementing the operations:

- to verify on a regular basis that operations financed by the Community have been properly carried out,
- to prevent and to take action against irregularities,
- to recover any amounts lost as a result of an irregularity or negligence. Except where the Member State and/or the intermediary and/or the promoter provide proof that they were not responsible for the irregularity or negligence, the Member States shall be liable in the alternative for reimbursement of any sums unduly paid. For global loans, the intermediary may, with the agreement of the Member State and the Commission, take up a bank guarantee or other insurance covering this risk.

Member States shall inform the Commission of the measures taken for those purposes and, in particular, shall notify the Commission of the description of the management and control systems established to ensure the efficient implementation of operations. They shall regularly inform the Commission of the progress of administrative and judicial proceedings.

Member States shall keep and make available to the Commission any appropriate national control reports on the measures included in the programmes or other operations concerned.

As soon as this Regulation enters into force, the Commission shall draw up detailed arrangements for implementation of this paragraph in accordance with the procedures referred to in Title VIII and inform the European Parliament thereof.

2. Without prejudice to checks carried out by Member States, in accordance with national laws, regulations and administrative provisions and without prejudice to the provisions of Article 206 of the Treaty or to any inspection arranged on the basis of Article 209 (c) of the Treaty, Commission officials or servants may carry out on-the-spot checks, including sample checks, in respect of operations financed by the Structural Funds and management and control systems.

Before carrying out an on-the-spot check, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. If the Commission carries out on-the-spot checks without giving notice, it shall be subject to agreements reached in accordance with the provisions of the Financial Regulation within the framework of the partnership. Officials or servants 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 regularity of payment requests. Commission

officials or servants may take part in such checks and must do so if the Member State concerned so requests.

The Commission shall ensure that any checks that it carries out are performed in a coordinated manner so as to avoid repeating checks in respect of the same subject matter during the same period. The Member State concerned and the Commission shall immediately exchange any relevant information concerning the results of the checks carried out.

3. For a period of three years following the last payment in respect of any operation, the responsible body and authorities shall keep available for the Commission all the supporting documents regarding expenditure and checks on the operation.

Article 24

Reduction, suspension and cancellation of assistance

1. If an operation or measure appears to justify neither part nor the whole of the assistance allocated, the Commission shall conduct a suitable examination of the case in the framework of the partnership, in particular requesting that the Member State or authorities designated by it to implement the operation submit their comments within a specified period of time.

2. Following this examination, the Commission may reduce or suspend assistance in respect of the operation or a measure concerned if the examination reveals an irregularity or a significant change affecting the nature or conditions for the implementation of the operation or measure for which the Commission's approval has not been sought.

3. Any sum received unduly and to be recovered shall be repaid to the Commission. Interest on account of late payment shall be charged on sums not repaid in compliance with the provisions of the Financial Regulation and in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII.

VII. MONITORING AND EVALUATION

Article 25

Monitoring

1. Within the framework of the partnership, the Commission and the Member States shall ensure effective monitoring of implementation of assistance from the Funds, geared to the Community support framework and specific operations (programmes, etc.). Such monitoring shall be carried out by way of jointly agreed reporting procedures, sample checks and the establishment of monitoring committees.

2. Monitoring shall be carried out by reference to physical and financial indicators specified in the Commission decision approving the operation concerned. The indicators shall relate to the specific character of the operation, its objectives and the form of assistance provided and to the socio-economic and structural situation of the Member State in which the assistance is to be utilized. They shall be arranged in such a way as to show, for the operations in question:

- the stage reached in the operation and the goals to be attained within a given timespan,
- the progress achieved on the management side and any related problems.

3. Monitoring committees shall be set up within the framework of the partnership, by agreement between the Member State concerned and the Commission.

The Commission and, where appropriate, the EIB may delegate representative to those committees.

4. For each multiannual operation, the authority designated for the purpose by the Member State shall submit progress reports to the Commission within six months of the end of each full year of implementation. A final report shall be submitted to the Commission within six months of completion of the operation.

For each operation to be implemented over a period of less than two years, the authority designated for the purpose by the Member State shall submit a report to the Commission within six months of completion of the operation.

5. The monitoring committee shall, if necessary, without modifying the total amount of the Community contribution and within harmonized limits by Objective, adjust the procedure for granting assistance as initially approved, as well as, in conformity with available resources and budgetary rules, the financing plan envisaged, including any transfers between Community sources of finance and the consequential adjustments of the rates of assistance. The harmonized limits by Objective referred to above shall be established by the Commission according to the procedure referred to in Title VIII and included in the Community support frameworks.

These amendments shall be notified immediately to the Commission and the Member State concerned. They shall become effective as soon as confirmation has been provided by the Commission and the Member State concerned; such confirmation shall be

given within a period of 20 working days from receipt of this notification, the date of which will be confirmed by the Commission by acknowledgement of receipt.

Other amendments required shall be decided by the Commission, in collaboration with the Member State concerned, after the monitoring committee has delivered its opinion.

6. For the greater effectiveness of the Funds, the Commission shall ensure that particular attention is paid to transparency of management in its administration of them.

For this purpose, in the context of the application of Community rules on the award of public contracts, notices sent for publication in the *Official Journal of the European Communities* shall specify those projects for which Community assistance has been applied for or granted.

7. Wherever this Regulation or the Regulations referred to in Article 3 (4) and in Article 3a of Regulation (EEC) No 2052/88 provide for the Commission to determine detailed arrangements for implementation, the precise details which are adopted shall be notified to the Member States and published in the *Official Journal of the European Communities*.

Article 26

Appraisal and evaluation

1. Appraisal and evaluation shall be the responsibility both of the Member States and the Commission and be carried out within the framework of the partnership. The competent authorities in the Member States shall contribute in such a way as to ensure that this appraisal and evaluation can be carried out in the most effective manner. In this connection, appraisal and evaluation shall make use of the various particulars that the monitoring arrangements can yield in order to gauge the socio-economic impact of the operations, where appropriate in close association with the monitoring committees.

Assistance will be allocated where appraisal shows medium-term economic and social benefits commensurate with the resources deployed.

2. In order to ensure the effectiveness of Community assistance, measures taken for structural purposes shall be subject to appraisal, monitoring and, after their implementation, evaluation. Effectiveness shall be measured at three levels:

— their overall impact on the objectives set out in Article 130a of the Treaty, and in particular the strengthening of the economic and social cohesion of the Community,

— the impact of measures proposed in the plans and undertaken under each Community support framework,

— the impact of individual measures (programmes etc.).

Appraisal and evaluation shall, according to the circumstances, be carried out by contrasting the goals with the results obtained, where applicable, and by reference to macroeconomic and sectoral objectives and indicators based on regional or national statistics, to information yielded by descriptive and analytical studies and to qualitative analyses.

Appraisal and evaluation shall take account of the socio-economic benefits expected or achieved commensurate with the resources deployed, conformity with Community policy and rules as referred to in Article 7 (1) of Regulation (EEC) No 2052/88 and the conditions in which the measures are implemented.

3. In drawing up Community support frameworks and in vetting individual applications for assistance, the Commission shall take into account the findings of appraisals and evaluations made in accordance with this Article.

4. The principles and procedures pertaining to appraisal and evaluation shall be laid down in the Community support framework.

5. The results of the appraisals and evaluations shall be submitted to the European Parliament and the Economic and Social Committee within the framework of the annual report and the three-yearly report provided for in Article 16 of Regulation (EEC) No 2052/88.

VIII. COMMITTEES

Article 27

Advisory Committee on the Development and Conversion of Regions

In accordance with Article 17 of Regulation (EEC) No 2052/88, an Advisory Committee on the Development and Conversion of Regions, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative. The European Parliament shall receive regular information on the outcome of the proceedings of the committee.

The Commission representative shall submit to the committee a draft of the measures to be taken. The

committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, where appropriate by taking a vote.

The opinion shall be recorded in the minutes. In addition, each Member State shall have the right to request that its position be recorded in those minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which it took account of the opinion.

The committee shall deliver opinions on draft Commission decisions concerning the Community support frameworks as provided for in Article 8 (5) and 9 (9) of Regulation (EEC) No 2052/88, on the regular reports provided for in Article 8 of Council Regulation (EEC) No 4254/88⁽¹⁾ and on the drawing-up and revision of the list of areas eligible in connection with Objective 2. The matters referred to in Article 10 of Regulation (EEC) No 4254/88 may also be referred to it by the Commission.

The committees referred to in Articles 28 and 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

⁽¹⁾ OJ No L 374, 31. 12. 1988, p. 15.

Article 28

Committee under Article 124 of the Treaty

In accordance with Article 17 of Regulation (EEC) No 2052/88, the committee set up under Article 124 of the Treaty shall be composed of two government representatives, two representatives of the workers' organizations and two representatives of the employers' organizations from each Member State. The Member of the Commission responsible for chairing the committee may delegate that responsibility to a senior Commission official.

For each Member State, an alternate shall be appointed for each category of representative mentioned above. In the absence of one or both members, the alternate shall be automatically entitled to take part in the proceedings.

The members and alternates shall be appointed by the Council acting on a proposal from the Commission, for a period of three years. They may be reappointed. The Council shall, as regards the composition of the Committee, endeavour to ensure fair representation of the different groups concerned. For the items on the agenda affecting it, the EIB shall appoint a non-voting representative.

The committee shall deliver opinions on the draft Commission decisions relating to the Community support frameworks relating to Objectives 3 and 4 and, in the case of support from the European Social Fund, on the Community support frameworks relating to Objectives 1, 2 and 5 (b).

For their adoption, the opinions of the committee shall require an absolute majority of the votes validly cast. The Commission shall inform the committee of the manner in which it took account of its opinions.

The committees referred to in Articles 27 and 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

Article 29

Management Committee on Agricultural Structures and Rural Development and Standing Management Committee on Fisheries Structures

1. In accordance with Article 17 of Regulation (EEC) No 2052/88 a Management Committee on Agricultural Structures and Rural Development, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver an opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority stipulated in Article 148 (2) of the Treaty in the case of decisions which the Council is requested to adopt on a proposal from the Commission; when a matter is put to the vote within the committee, the votes of the Member States' representatives shall be weighted as provided for in the aforementioned Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion delivered by the committee, they shall be communicated forthwith by the Commission to the Council. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period provided for in the third subparagraph.

The committee shall deliver opinions on draft Commission decisions:

- relating to common measures under Objective 5 (a),
- relating to the establishment of the list of areas eligible under Objective 5 (b) as well as to Community support frameworks under this objective.

The committee shall also be consulted on operations concerning agricultural structures and rural development included in the draft Commission decisions relating to the Community support frameworks for the Objective 1 regions.

The committee provided for in this paragraph shall replace the Standing Committee on Agricultural Structures, set up by Article 1 of the Council Decision of 4 December 1962 ⁽¹⁾, in respect of all the functions assigned to it under that Decision or under Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽²⁾.

The committee referred to in Articles 27 and 28 and paragraph 2 of this Article shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

2. The provisions detailing the operation of the Standing Management Committee on Fisheries Structures shall be laid down in accordance with the provisions laid down pursuant to the first subparagraph of Article 3a of Regulation (EEC) No 2052/88.

⁽¹⁾ OJ No 136, 17. 12. 1962, p. 2892/62.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EEC) No 2048/88 (OJ No L 185, 15. 7. 1988, p. 1).

Article 29a

Management Committee for Community Initiatives

In accordance with Article 17 of Regulation (EEC) No 2052/88, a Management Committee for Community Initiatives, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver an opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority stipulated in Article 148 (2) of the Treaty in the case of decisions which the Council is requested to

adopt on a proposal from the Commission; when a matter is put to the vote within the committee, the votes of the Member States' representatives shall be weighted as provided for in the aforementioned Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion delivered by the committee, they shall be communicated forthwith by the Commission to the Council. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period provided for in the third subparagraph.

The committee shall deliver opinions on the Commission proposals to the Member States referred to in Article 11 (1).

The committee referred to in Articles 27 to 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

Article 30

Other provisions

1. The Commission shall periodically refer to the committees provided for in Articles 27, 28 and 29 the reports referred to in Article 16 of Regulation (EEC) No 2052/88. It may seek the opinion of the committees on any matter relating to assistance operations under the Funds, other than those provided for in this Title.

Moreover, all the specific cases laid down in Regulation (EEC) No 2052/88, and in all the implementing Regulations referred to in Article 130e of the Treaty, shall be referred to the committees.

The Commission shall inform the appropriate committees of the granting of assistance to major productive investment projects, the total cost of which taken into account in determining the amount of Community assistance is greater than ECU 50 million.

2. Decision 75/185/EEC ⁽¹⁾ and Decision 83/517/EEC ⁽²⁾ shall be repealed and, as regards the EAGGF Guidance Section, Articles 11 to 15 of Regulation (EEC) No 729/70 shall no longer apply as far as the EAGGF committee is concerned.

⁽¹⁾ OJ No L 73, 21. 3. 1975, p. 47.

⁽²⁾ OJ No L 289, 22. 10. 1983, p. 42.

IX. REPORTS AND PUBLICITY

Article 31

Reports

1. The annual reports referred to in the first subparagraph of Article 16 of Regulation (EEC) No 2052/88 shall review, *inter alia*:

- the activities of each Fund, the utilization of their budgetary resources and the concentration of assistance within the meaning of Article 12 of Regulation (EEC) No 2052/88, the deployment of the other financial instruments for which the Commission has responsibility and where their resources have been concentrated; these reviews shall include an annual breakdown by Member State of appropriations committed and appropriations paid out in respect of each Fund and the FIG, including Community initiatives and technical assistance,
- the coordination of assistance provided by the Funds between themselves and with the assistance granted by the EIB and the other existing financial instruments,
- the results of the appraisal, monitoring and evaluation referred to in Articles 25 and 26 indicating any changes made to measures, and an evaluation of the compatibility of Fund assistance with Community policies, including those on environmental protection, competition and public procurement,
- the list of major productive investment projects which benefited from assistance granted under Article 16 (2); these projects should be the subject of a concise evaluation,
- the results of controls carried out, indicating the number and financial volume of irregularities detected and the lessons to be drawn from these controls,
- the results of analysis of the impact of Community assistance and policies as compared with the objectives listed in Article 1 of Regulation (EEC) No 2052/88 and in particular their impact on the socio-economic development of the regions,
- information on the opinions of committees delivered in accordance with Title VIII,
- an analysis of the follow-up to recommendations and comments made by the European Parliament in its opinion on the previous years' annual report.

2. Each year, the Commission shall consult the social partners organized at European level on the structural policy of the Community.

3. The three-yearly report referred to in the third subparagraph of Article 16 of Regulation (EEC) No 2052/88 shall review in particular;

- progress made in achieving economic and social cohesion,
- the role of the Structural Funds, the FIG, the financial instrument for cohesion, the EIB and other financial instruments as well as the impact of other Community policies in the completion of this process,
- any proposals which may need to be adopted in order to strengthen economic and social cohesion.

Article 32

Information and publicity

1. Member States shall ensure that adequate publicity is given to the plans referred to in Article 5 (1).

2. The body responsible for implementing a measure carried out with financial assistance from the Community shall ensure that adequate publicity is given to the measure with a view to:

- making potential beneficiaries and trade organizations aware of the opportunities afforded by the measure,
- making the general public aware of the role played by the Community in relation to the measure.

Member States shall consult the Commission on, and inform it of, the initiatives taken for these purposes.

Once this Regulation has come into force, the Commission shall draw up detailed arrangements for information and publicity concerning assistance from the Funds and the FIG, shall inform the European Parliament thereof and shall publish them in the *Official Journal of the European Communities*.

X. FINAL PROVISIONS

Article 33

Transitional provisions

1. In drawing up Community support frameworks, the Commission shall take account of any measure already approved by the Council or by the Commission before the entry into force of this Regulation and having financial repercussions during the period covered by those support frameworks. These measures shall not be subject to compliance with Article 15 (2).

2. Notwithstanding Article 15 (2), requests for expenditure received by the Commission between 1 January and 30 April 1994 and fulfilling all the conditions under Article 14 (2) may be regarded as eligible for assistance from the Funds from 1 January 1994.'

Article 2

Entry into force

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 20 July 1993.

For the Council

The President

W. CLAES

COUNCIL REGULATION (EEC) No 2083/93

of 20 July 1993

amending Regulation (EEC) No 4254/88 laying down provisions for implementing Regulation (EEC) No 2052/898 as regards the European Regional Development Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130e thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Regulation (EEC) No 2081/93 ⁽⁴⁾ amends Regulation (EEC) No 2052/88 on the tasks of the structural funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁵⁾; whereas Regulation (EEC) No 2082/93 ⁽⁶⁾ amends Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different structural funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁷⁾; whereas Regulation (EEC) No 4254/88 ⁽⁸⁾ should therefore also be amended;

Whereas Article 3 (1) of Regulation (EEC) No 2052/88, in the regions concerned by Objective 1, extends the scope of the European Regional Development Fund (ERDF) to investment in the field of education and health; whereas the contribution of ERDF assistance, as part of its regional development role, to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures as well as to the establishment of more favourable environmental conditions, particularly in the Objective 1 regions, and to increasing capacity in the regions in the area of research and technological

development to enable them to participate more fully in the Community's multiannual framework programmes should be specified; whereas according to Article 7 of Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument ⁽⁹⁾, no item of expenditure may benefit both from that instrument and from the ERDF;

Whereas the principles and objectives of sustainable development are set out in the Community programme of policy and action in relation to the environment and sustainable development as laid down in the Council resolution of 1 February 1993 ⁽¹⁰⁾;

Whereas the regional partnership should be strengthened by including the economic and social partners, in accordance with Article 4 of Regulation (EEC) No 2052/88;

Whereas, in order to increase the effectiveness of regional policies, there should be increased flexibility in the implementation of the Community's regional assistance particularly by extending the forms of assistance which may apply to Community initiatives;

Whereas Article 12 of Regulation (EEC) No 2052/88 provides for allocations per Member State for each of the Objectives 1 to 4 and 5 (b) of the commitment appropriations of all the structural funds; whereas, as a result, the last subparagraph of Article 3 (2) and Article 13 of Council Regulation (EEC) No 4254/88 may be deleted,

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 13 of Regulation (EEC) No 4254/88 shall be replaced by the following:

TITLE I

SCOPE AND FORMS OF ASSISTANCE

Article 1

Scope

Within the framework of the task entrusted to it by Article 130c of the Treaty, the European Regional

⁽⁹⁾ OJ No L 79, 1. 4. 1993, p. 74.

⁽¹⁰⁾ OJ No C 138, 17. 5. 1993, p. 1.

¹⁾ OJ No C 131, 11. 5. 1993, p. 6.

²⁾ Opinion delivered on 22 June 1993 (not yet published in the Official Journal) and Decision of 14 July 1993 (not yet published in the Official Journal).

³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁴⁾ See page 5 of this Official Journal.

⁵⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁶⁾ See page 20 of this Official Journal.

⁷⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁸⁾ OJ No L 374, 31. 12. 1988, p. 15.

Development Fund (ERDF) shall, in accordance with Article 3 (1) of Regulation (EEC) No 2052/88, participate in the financing of:

- (a) productive investment to permit the creation or maintenance of permanent jobs;
- (b) investment in infrastructure, namely:
 - in the regions designated under Objective 1, investment contributing to increasing economic potential, development, structural adjustment of these regions, including, where appropriate, that contributing to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures,
 - in the regions or areas designated under Objective 2, investment relating to the regeneration of areas suffering from industrial decline, including inner cities, and those whose modernization or laying out is a prerequisite for the creation or development of economic activity,
 - in the areas designated under Objective 5 (b), investment directly linked to economic activity which creates jobs other than in agriculture, including communication infrastructure links and others on which the development of such activities depends;
- (c) the development of indigenous potential in the regions by measures which encourage and support local development initiatives and the activities of small and medium-sized enterprises, involving in particular:
 - assistance towards services for enterprises, in particular in the fields of management, market study and research and services common to several enterprises,
 - financing the transfer of technology, including in particular the collection and dissemination of information and financing the introduction of innovation in enterprises,
 - improvement of access for enterprises to the capital market, particularly by the provision of guarantees and equity participation,
 - direct aid to investment, where no aid scheme exists,
 - the provision of small-scale infrastructure;
- (d) in the regions designated under Objective 1, investment in the field of education and health contributing to their structural adjustment;
- (e) measures contributing towards regional development in the field of research and technological development apart, however, from measures linked to the operation of the labour market and the development of human resources;
- (f) productive investment and investment in infrastructure aimed at environmental protection, in accordance with the principles of sustainable development, where such investment is linked to regional development;
- (g) operations in the context of regional development at Community level, in particular in the case of frontier regions of the Member States, in accordance with Article 3 (1), last subparagraph, of Regulation (EEC) No 2052/88;
- (h) the preparatory, appraisal, monitoring and evaluation measures referred to in Article 7.

Article 2

Regional plans

1. Apart from the general provisions laid down in Title II of Regulation (EEC) No 4253/88, the following specific provisions shall apply to the regional plans referred to in Articles 8 (4) and 9 (8) of Regulation (EEC) No 2052/88.

2. The plans relating to the regions designated under Objective 1 shall, as a general rule, cover one region at NUTS (Nomenclature of Territorial Units for Statistics) level II. However, pursuant to the second subparagraph of Article 8 (4) of Regulation (EEC) No 2052/88, Member States may submit a plan for more than one of their regions included in the list referred to in paragraph 2 of that Article, provided that the plan comprises the features listed in the first subparagraph of Article 8 (4).

When submitting the plans, the Member States shall supply information on the authorities or bodies designated by them at national, regional, local or level which are to be responsible for implementing the measures.

As a general rule, these plans shall be for a period of six years and may be updated annually. The data relating to the fifth and sixth years may be supplied on an indicative basis.

3. The plans relating to the regions designated under Objective 2 shall normally cover one or more areas at NUTS level III.

When submitting the plans, the Member States shall supply information on the national, regional, local or other authorities or bodies which are to be responsible for implementing the measures.

As a general rule, these plans shall be for a period of three years and may be updated annually.

4. The plans relating to the regions designated under Objective 5 (b) shall be drawn up in accordance with the procedure laid down in Article 7 of Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section ⁽¹⁾.

5. When submitting applications to the ERDF, Member States shall ensure that a sufficient proportion is allocated to investment in industry, craft industry and services, particularly through part-financing of aid schemes.

⁽¹⁾ OJ No L 374, 31. 12. 1988, p. 25.

Article 3

Regional operational programmes

1. For the regions designated under Objective 1, regional operational programmes or other forms of assistance as referred to in Article 5 (2) of Regulation (EEC) No 2052/88 shall in principle cover one region at NUTS level II or, in specific cases, one or more regions at NUTS level III or more than one region at NUTS level II. For regions and areas designated under Objectives 2 and 5 (b), and for frontier areas, they shall in general cover one or more areas at NUTS level III.

2. The programmes may be undertaken on the initiative of the Member States or of the Commission in agreement with the Member State concerned, in accordance with the last subparagraph of Article 5 (5) of Regulation (EEC) No 2052/88 and Article 11 of Regulation (EEC) No 4253/88.

When they are undertaken on the initiative of a Member State, they shall be drawn up by the authorities designated by the Member State, in consultation with the Commission.

When they are undertaken on the initiative of the Commission, the Commission, after consulting the committee referred to in Article 29a of Regulation (EEC) No 4253/88 and after notifying the European Parliament, shall lay down the guidelines and invite the Member State or Member States concerned to establish requests for assistance. It shall order these guidelines to be published in the *Official Journal of the European Communities*.

The Commission's initiative shall be designed, within the framework of the tasks entrusted to the ERDF by Article 3 (1) of Regulation (EEC) No 21052/88, to:

- help to resolve serious problems directly associated with the implementation of other Community policies and affecting the socio-economic situation of one or more regions, or
- promote the application of Community policies at regional level, or
- help to resolve problems common to certain categories of region.

Article 4

Part-financing of aid schemes

1. The grant of Community assistance to regional aid schemes shall constitute one of the main forms of incentive to investment in enterprises.

2. With a view to deciding the Community's financial participation, the Commission shall examine, with the authorities designated by the Member State, the characteristics of the aid scheme concerned. It shall in particular take account of the following:

- the rate of aid to be tailored to the socio-economic situation of the regions concerned and the consequent locational disadvantages for enterprises,
- operating procedures and the types of aid, including rates, to be varied to meet the needs,
- the priority given to small and medium-sized enterprises and the encouragement of services supplied to them, such as management advice and market surveys,
- the economic repercussions of the aid scheme on the region,
- the characteristics and impact of any other regional aid scheme in the same region.

Article 5

Projects

In addition to the information specified in Article 16 of Regulation (EEC) No 4253/88, applications for ERDF assistance for the projects referred to in Article 5 (2) (d) of Regulation (EEC) No 2052/88 submitted individually or within the framework of an operational programme shall provide the information set out below. However, in the case of projects forming part of an operational programme, the information may be sent to the Commission at a later date.

The information shall cover:

(a) for investment in infrastructures:

- analysis of the costs and socio-economic benefits of the project, including an indication of the expected rate of use,
- the expected impact on the development or conversion of the region concerned,
- an indication of the consequences that Community participation will have for the completion of the project;

(b) for productive investment:

- an indication of the market outlook for the sector concerned,
- the effects on employment,
- an analysis of the expected profitability of the project.

Article 6

Global grants

1. In accordance with Article 5 (2) (c) of Regulation (EEC) No 2052/88, the Commission may entrust to appropriate intermediaries, including regional development bodies designated by the Member State in agreement with the Commission, the management of global grants, which it shall use primarily to assist local development initiatives. These intermediaries, who must provide the guarantees of solvency and have the necessary administrative capability referred to in Article 16 (1) of Regulation (EEC) No 4253/88, must be present or represented in the regions concerned and must operate in the public interest and shall associate adequately the socio-economic interests directly concerned by the implementation of the measures planned.

2. The procedures for the use of global grants shall be the subject of an agreement concluded, in agreement with the Member State concerned, between the Commission and the intermediary concerned.

These procedures shall detail in particular:

- the types of measure to be carried out,
- the criteria for choosing beneficiaries,
- the conditions and rates of ERDF assistance,
- the arrangements for monitoring use of the global grants.

3. In accordance with the last subparagraph of Article 5 (5) of Regulation (EEC) No 2052/88, global

grants may be undertaken on the initiative of the Member States or of the Commission, in agreement with the Member State concerned. Commission initiatives shall be carried out in accordance with the conditions listed in the last subparagraph, Article 3 (2) of this Regulation.

Article 7

Preparatory, appraisal, monitoring and evaluation measures

1. The ERDF may finance, up to a limit of 0,5 % of its annual allocation, the preparatory, prior appraisal, monitoring and *ex post* evaluation measures necessary for the implementation of this Regulation carried out by the Commission or by outside experts. They shall include studies, among them studies of a general nature concerning Community regional action, and technical assistance or information measures, including, in particular, measures to provide information for local and regional development agents.

2. Measures carried out on the Commission's initiative may, in exceptional circumstances, be financed at a rate of 100 %; those carried out on behalf of the Commission shall be financed at a rate of 100 %. For other measures, the rates laid down in Article 17 of Regulation (EEC) No 4253/88 shall apply.

TITLE II

GUIDELINES AND PARTNERSHIP

Article 8

Periodic report and guidelines

1. A periodic report on the socio-economic situation and development of the regions of the Community, which also indicates the macro-economic effects of the Community's regional action, shall be prepared by the Commission at three-yearly intervals in accordance with the procedures laid down in Title VIII of Regulation (EEC) No 4253/88. Member States shall provide the Commission with the relevant information enabling it to make an analysis of all the regions of the Community on the basis of statistics which are as comparable and as up to date as possible. The report must also make it possible to assess the regional impact of other Community policies.

2. This report shall constitute a basis for the establishment of guidelines for Community regional policy. These shall be applied by the Commission in the various stages of planning, notably in establishing and amending Community support frameworks and in the activities of the ERDF. These guidelines shall be

forwarded to the Council and the European Parliament and shall be published for information in the *Official Journal of the European Communities*.

Article 9

Regional partnership

The Community's regional action shall be carried out in close consultation between the Commission, the Member State concerned and the competent authorities and bodies — including, within the framework of each Member State's national rules and practices, — the economic and social partners, designated by the Member States, in accordance with Article 4 (1) of Regulation (EEC) No 2052/88, for the implementation of measures at regional level.

TITLE III

REGIONAL DEVELOPMENT AT COMMUNITY LEVEL

Article 10

Definition of assistance

1. In accordance with the last subparagraph of Article 3 (1) of Regulation (EEC) No 2052/88, the ERDF may also contribute, up to a ceiling of 1% of its annual budget, to the financing at Community level of:

- (a) studies on the Commission's initiative aiming to identify:
- the spatial consequences of measures planned by the national authorities, particularly major infrastructures, when their effects go beyond national boundaries,
 - measures aiming to correct specific problems of the border regions within and outside the Community,
 - the elements necessary to establish a prospective outline of the utilization of Community territory;
- (b) pilot schemes which:
- constitute incentives to the creation of infrastructure, investment in enterprises and other specific measures having a marked

Community interest, in particular in the border regions with and outside the Community,

- encourage the pooling of experience and development cooperation between different Community regions, and innovative measures.

2. On the Commission's initiative, matters relating to regional development at Community level, coordination of national regional policies or any other problem connected with implementation of Community regional action may be referred to the committee specified in Article 27 of Regulation (EEC) No 4253/88. The Committee may arrive at common conclusions on the basis of which the Commission shall, where appropriate, address recommendations to the Member States.

TITLE IV

GENERAL AND FINAL PROVISIONS

Article 11

Monitoring of compatibility

Where appropriate and through procedures suitable to each policy, Member States shall supply the Commission with information concerning compliance with the provisions of Article 7 (1) of Regulation (EEC) No 2052/88.

Article 12

Transitional provisions

Those portions of the sums committed for the granting of assistance in respect of projects decided on by the Commission before 1 January 1989 under the ERDF which have not been the subject of a request for final payment to the Commission by 31 March 1995 shall be automatically released by the Commission by 30 September 1995 at the latest, without prejudice to those projects which are subject to suspension for judicial reasons.'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 20 July 1993.

For the Council
The President
W. CLAES

COUNCIL REGULATION (EEC) No 2084/93

of 20 July 1993

amending Regulation (EEC) No 4255/88 laying down provisions for implementing Regulation (EEC) (No 2052/88 as regards the European Social Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Articles 126 and 127 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Regulation (EEC) No 2081/93 ⁽⁴⁾ amended Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁵⁾; whereas Regulation (EEC) No 2082/93 ⁽⁶⁾ amended Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different structural funds, on the one hand, between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁷⁾, on the other; whereas it is necessary also to amend Regulation (EEC) No 4255/88 ⁽⁸⁾;

Whereas it is necessary to extend the scope of the European Social Fund (hereinafter referred to as the 'Fund'), in particular following the redefinition of Objectives 3 and 4, as well as the definition of a new Objective 4; whereas it is necessary to take account explicitly of persons exposed to exclusion from the labour market and to render more flexible the eligibility criteria for categories that are already eligible;

Whereas, owing to the seriousness of the unemployment situation, Community action in connection with Objectives 3 and 4 will relate predominantly to Objective 3 'combating long term unemployment and facilitating

the integration into working life of young people and of persons exposed to exclusion from the labour market' and whereas this will be reflected in the financial breakdown between Objectives 3 and 4;

Whereas, given the limited funding available, combating long-term unemployment and facilitating the integration of young people into working life remain priorities under Objective 3;

Whereas it is necessary to redefine eligible actions in order to increase the effectiveness of the implementation of policy aims in the context of all Objectives under which the Fund takes action and to provide for a widening of that action, especially employment aids, which may, for example, take the form of aids for geographical mobility, recruitment and the creation of self-employed activities;

Whereas it is appropriate that the actions taken by the Fund under the different Objectives form a coherent approach so as to improve the workings of the labour market and to develop human resources; whereas the Member States and the Commission should ensure that the principle of equal opportunities for men and women is respected in the implementation of the actions financed by the Fund in the context of all the objectives;

Whereas it is necessary to ensure that Objective 4 strengthens employment and job qualifications through anticipation, counselling, networking and training operations throughout the Community and that it must therefore be horizontal, covering the economy as a whole, without a priori reference to specific industries or sectors, be aimed at workers of either sex in employment, particularly those threatened with unemployment, and not at undertakings, and at improving their qualifications and employment opportunities, be targeted as far as the type of operations is concerned, with due regard to the rules of competition, and complement, not replace, efforts that firms undertake themselves;

Whereas it is necessary to ensure that operations under Objective 4 address the underlying causes of problems relating to industrial adaptation, including services, and do not deal with symptoms relating to the short-term market; whereas such operations should meet the general needs of workers of either sex resulting from industrial change and changes in production systems identified or predicted and are not designed to benefit a single firm or a particular industry; whereas particular attention should be devoted to small and medium-sized enterprises and special attention be devoted to enhancing access to training;

⁽¹⁾ OJ No C 131, 11. 5. 1993, p. 10.

⁽²⁾ Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁽⁴⁾ See page 5 of this Official Journal.

⁽⁵⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁶⁾ See page 20 of this Official Journal.

⁽⁷⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽⁸⁾ OJ No L 374, 31. 12. 1988, p. 21.

Whereas, having regard to the strategic importance in this respect of the continuing training of workers of either sex, Objective 4 should concentrate on operations in the areas of training related to the introduction, use and development of new or improved production methods, in particular new organizational techniques and new technologies and on changes in markets and in society, particularly with regard to the protection of the environment; whereas, moreover, training should also be linked to the necessary adaptation of workers in small and medium-sized enterprises as a result of the changes in production system as well as the need to demonstrate the qualitative and environmental soundness of products and processes;

Whereas it is necessary to define expenditure eligible for Fund assistance within the framework of the partnership;

Whereas it is necessary to ensure that the support of the Fund is concentrated under each objective on the most important needs and the most effective operations;

Whereas it is necessary to supplement and specify the content of plans and forms of assistance, especially following the redefinition of Objectives 3 and 4;

Whereas it is necessary, pursuant to Article 13 (5) of Regulation (EEC) No 2052/88 that enterprise finance an appropriate portion of the cost of operations to promote the training of employees of either sex;

Whereas the Fund also contributes to support for technical assistance and for pilot and demonstration projects in accordance with Article 5 (2) (e) of Regulation (EEC) No 2052/88;

Whereas it is necessary, pursuant to Article 14 (2) of Regulation (EEC) No 2052/88, that the Fund finance under more than one objective operations concerning in particular the development of employment, training and other similar structures, including the training of teachers and trainers of either sex and other categories of staff of those structures;

Whereas the transitional provisions should be specified;

Whereas it is necessary to delete all reference to the guidelines regard Fund support as their function is henceforth ensured by the definition of policy aims and by the obligation to concentrate Fund action on the most important needs and the most effective actions,

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 9 of Regulation (EEC) No 4255/88 shall be replaced by the following:

Article 1

Scope

Within the framework of the task entrusted to it by Article 123 of the Treaty and in accordance with Article 3 (2) of Regulation (EEC) No 2052/88 the Fund shall support:

1. as regards Objective 3, throughout the Community, operations intended, in the first place, to:

(a) facilitate the occupational integration of unemployed persons exposed to long-term unemployment, in particular through:

(i) vocational training, pre-training including upgrading of basic skills, guidance and counselling;

(ii) temporary employment aids;

(iii) the development of appropriate training, employment and support structures, including the training of necessary staff, and the provision of care services for dependants;

(b) facilitate the occupational integration of young people in search of employment through operations as described in (a), including the possibility of up to two years' or more initial vocational training leading to a vocational qualification, and the possibility of vocational training equivalent to compulsory schooling, provided that by the end of that training the young people are old enough to join the labour market;

and also to:

(c) promote integration of persons exposed to exclusion from the labour market through operations as described in (a);

(d) promote equal opportunities for men and women on the labour market especially in areas of work in which women are under-represented and particularly for women not possessing vocational qualifications or returning to the labour market after a period of absence through operations as described in (a) and through other accompanying operations;

2. as regards Objective 4, throughout the Community, and in accordance with the competition rules referred to in Article 7 of Regulation (EEC) No 2052/88, operations intended to facilitate the adaptation of workers of either sex, especially those threatened with unemployment, to industrial change and to changes in production systems in particular through:

- the anticipation of labour market trends and vocational qualification requirements,
- vocational training and retraining, guidance and counselling,
- assistance for the improvement and development of appropriate training systems.

The actions should take into account, in particular, the specific needs of small and medium-sized enterprises;

3. as regards Objectives 1, 2 and 5 (b), in the regions concerned, operations intended to:

- (a) support employment growth and stability, in particular through continuing training and through guidance and counselling for workers of either sex, especially those in small and medium-sized enterprises and those threatened with unemployment, and for persons who have lost their jobs, as well as through support for the development of appropriate training systems, including training of instructors, and through the improvement of employment services;
- (b) boost human potential in research, science and technology, particularly through post-graduate training and the training of managers and technicians of either sex at research establishments;

4. as regards Objective 1, in the regions concerned, operations intended to:

- (a) strengthen and improve education and training systems, particularly through the training of teachers and instructors of either sex and administrative staff, by encouraging links between training centres or higher education establishments and enterprises and financing training within the national secondary or equivalent and higher education systems which has a clear link with the labour market, new technology or economic development;
- (b) contribute to development through the training of public officials where this is necessary for the implementation of development and structural adjustment policies.

The Member States and the Commission shall ensure that operations under the different objectives form a coherent approach to improving the workings of the labour market and developing human resources, taking into account the development, reconversion

and structural adjustment objectives in the Member States or regions concerned.

The Member States and the Commission shall ensure that operations under the different objectives respect the principle of equal treatment for men and women.

In addition, the Fund may support operations within the meaning of Article 5 (2) (e) of Regulation (EEC) No 2052/88 throughout the Community.

Article 2

Eligible expenditure

1. Fund assistance may be granted towards expenditure to cover:

- the remuneration and related costs as well as the subsistence and travel costs of persons covered by the operations provided for in Article 1,
- the preparation, operation, management and evaluation costs of the operations provided for in Article 1, after deduction of revenue,
- the cost of employment aid granted under arrangements existing in the Member States.

The nature of these costs and this revenue will be defined and agreed within the framework of the partnership at the programming stage.

Without prejudice to checks by the Commission, the Member States shall ensure that the cost of individual operations is kept within limits appropriate to each type of operation.

The Commission shall ensure that Fund expenditure for training operations of the same type does not develop in different ways. To this end, after the committee referred to in Article 28 of Regulation (EEC) No 4253/88 has delivered its opinion, it shall determine for each Member State, in cooperation with that State, the indicative average amounts for expenditure according to the type of training involved.

2. Fund assistance may also be granted towards expenditure to cover the cost of operations under Article 5 (2) (e) of Regulation (EEC) No 2052/88, including operations under Article 6 of this Regulation.

Article 3

Concentration of assistance

The Member States and the Commission shall ensure within the partnership at the planning and programming stage that Community assistance to be provided under each objective is concentrated on the

most important needs and the most effective operations relating to the aims defined in Article 1 of this Regulation, so as to contribute to the Objectives and fulfil the tasks of the Fund as set out in Article 1 and Article 3 (2) of Regulation (EEC) No 2052/88.

Article 4

Plans

1. The plans referred to in Articles 8, 9, 10 and 11a of Regulation (EEC) No 2052/88 shall describe, particularly in the part concerning the Fund, including figures where appropriate, taking account of the evaluation results available:

- imbalances between demand and supply in employment, include female employment,
- the nature and characteristics of unfilled vacancies,
- the employment opportunities which exist on labour markets,
- the types of measures to be implemented and the categories and the number of persons involved, taking account of the need for concentration provided for in Article 3 of this Regulation,
- the expected contribution of the operations concerned towards the promotion of equal opportunities for men and women on the labour market.

These plans shall indicate the manner in which where, within the framework of each Member State's national rules and current practices, account has been taken of the association of the economic and social partners in the partnership referred to in Article 4 of Regulation (EEC) No 2052/88.

2. The plans referred to in Article 10 (1) of Regulation (EEC) No 2052/88 shall, in addition to the items listed in paragraph 1 of this Article, indicate the way in which the Member State will, where appropriate, secure the participation of bodies providing services in the areas concerned for the preparation and management of operations in favour of the persons referred to in Article 1 (1) of this Regulation.

3. The plans referred to in Article 10 (2) of Regulation (EEC) No 2052/88 shall, in addition to the items listed in paragraph 1 of this Article, indicate:

- imbalances between the qualifications which are offered and those which are in demand on the employment market, with particular reference to the workers of either sex affected by industrial change and changes in production systems,

- the way in which the Member States will, within the procedures available under each Member State's institutional rules and existing practices secure the participation of the economic and social partners and of vocational training bodies, at the appropriate level, when preparing operations, particularly as regards anticipating the effects of industrial change and changes in production systems,

- the relationship between operations and other Community policies relating to industrial change and changes in production systems, in particular the link with vocational training policy.

Article 5

Forms of assistance

1. Applications for Fund assistance shall be presented mainly in the form of:

- (a) operational programmes;
- (b) global grant schemes;
- (c) technical assistance and pilot and demonstration projects within the meaning of Article 5 (2) of Regulation (EEC) No 2052/88.

2. The Member States shall communicate the information needed to appraise, monitor, evaluate, manage and control operations, making a distinction, where appropriate, between men and women. More specifically, this information shall relate to that described in Article 14 (2) of Regulation (EEC) No 4253/88, including information peculiar to the Fund such as the geographical concentration, the target groups, the number of persons involved and the duration of the operations.

3. Pursuant to Article 13 (5) of Regulation (EEC) No 2052/88, enterprises whose workers of either sex are able to take part in training operations shall finance an appropriate portion of the cost of such operations.

4. The applications for assistance shall be accompanied by a computerized form, drawn up within the framework of the partnership, listing the operations regarding each form of assistance so that it can be followed through from budgetary commitment to final payment.

Article 6

Technical assistance and pilot and demonstration projects

1. Outside the Community support frameworks the Fund may finance, up to a limit of 0,5 % of its annual allocation, preparatory, appraisal, monitoring and evaluation operations in Member States or at Community level which are necessary for the

implementation of the operations referred to in Article 1 of this Regulation and carried out at the Commission's initiative or on the account of the Community. They shall include:

- (a) operations of an innovatory nature which are intended to test new approaches to the content, methods and organization of vocational training, including integration of the Community dimension of vocational training and, more generally, the development of employment including the promotion of equal opportunities for men and women on the labour market and the vocational integration of persons exposed to exclusion from the labour market, with a view to establishing a basis for subsequent Fund assistance in a number of Member States;
- (b) studies, technical assistance and the exchange of experience which has a multiplier effect, preparation, appraisal, monitoring, and detailed evaluation, as well as control of operations financed by the Fund;
- (c) operations directed, within the framework of social dialogue, at staff from enterprises in two or more Member States and concerning the transfer of special knowledge relating to modernization of the production apparatus;
- (d) informing the various partners involved, the final recipients of assistance from the Fund and the general public.

2. In accordance with the last subparagraph of Article 3 (2) of Regulation (EEC) No 2052/88, the Fund may also contribute up to 1% of its annual budget to the financing, outside the Community support framework, of:

- (a) studies on the Commission's initiative;
- (b) pilot projects including exchanges of experience and transfers of know-how

relating to the labour market at Community level or contributing to the implementation of Community vocational training policy.

These may concern in particular the design and development of job systems, of job supply and

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

Done at Brussels, 20 July 1993.

demand mechanisms, of methods for forward-looking labour force management as well as for the anticipation of skill needs, for the promotion of equal opportunities for men and women on the labour market and for the integration into employment of persons exposed to exclusion from the labour market, the improvement or overhaul of training structures, the establishment or development of a national system of validation and accreditation of qualifications, or they may complement specific Community programmes.

3. Operations carried out on the Commission's initiative may, in exceptional circumstances, be financed by the Fund at a rate of 100%, it being understood that those carried out on behalf of the Commission itself shall be financed at a rate of 100%.

Article 7

Combination and overlapping

Pursuant to Article 14 (2) of Regulation (EEC) No 2052/88, the Fund may finance under more than one of the Objectives set out in Article 1 of that Regulation operations concerning in particular the development of employment, training and other similar structures, including the training of teachers and instructors of either sex and other categories of staff of those structures as well as technical assistance operations.

Article 8

Transitional provisions

Those portions of the sums committed for the granting of assistance in respect of projects decided on by the Commission before 1 January 1989 under the Fund which have not been the subject of a request for final payment to the Commission by 31 March 1995 shall be automatically released by the Commission by 30 September 1995 at the latest, without prejudice to those projects which are subject to suspension for judicial reasons.'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

For the Council

The President

W. CLAES

COUNCIL REGULATION (EEC) No 2085/93

of 20 July 1993

amending Regulation (EEC) No 4256/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Council adopted Regulation (EEC) No 2081/93 ⁽⁴⁾ amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁵⁾;

Whereas the Council adopted Regulation (EEC) No 2082/93 ⁽⁶⁾ amending Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁷⁾;

Whereas, as a result of the amendments to the aforementioned Regulations and to take account of the experience acquired, Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section ⁽⁸⁾ should be amended;

Whereas the accompanying measures for agri-environment, afforestation and early retirement adopted

under the reform of the common agricultural policy (CAP) are to be financed in future by the EAGGF Guarantee Section;

Whereas the list of measures eligible under Objectives 1 and 5 (b) should be revised on the basis of experience and having regard to the need for rural development to be based also on non-agricultural activities and on multiple activities by farmers of either sex, to reverse the trend towards the economic and social decline and depopulation of the countryside, strengthening, in particular, measures to promote local products and non-polluting forms of agriculture, horticulture and livestock-farming, prevent natural disasters, renovate villages and protect and conserve the rural heritage;

Whereas, within the context of its contribution to achieving Objective 1 and Objective 5 (b) the Fund should be able to finance measures for sustainable development of the rural environment, including developing and strengthening agricultural and forestry structures which use methods and techniques that respect the environment; whereas the Fund should also be able to finance the encouragement of tourist and craft investments, including the improvement of living accommodation on agricultural holdings and in the countryside;

Whereas the scope of Article 8 of Regulation (EEC) No 4256/88 should be extended to incorporate rural development more effectively in measures carried out under that Article and to strengthen measures relating to information and the dissemination of knowledge;

Whereas measures relating to the fisheries sector are the subject of a specific regulation and no longer fall within the scope of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 11 of Regulation (EEC) No 4256/88 are hereby replaced by the following:

'Article 1

1. The Guidance Section of the European Agricultural Guidance and Guarantee Fund,

⁽¹⁾ OJ No C 131, 11. 5. 1993, p. 6.

⁽²⁾ Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁽⁴⁾ See page 5 of this Official Journal.

⁽⁵⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁶⁾ See page 20 of this Official Journal.

⁽⁷⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽⁸⁾ OJ No L 374, 31. 12. 1988, p. 25.

(hereinafter called "the Fund"), may finance measures for performing the tasks referred to in Article 3 (3) of Regulation (EEC) No 2052/88 in order to attain Objectives 1, 5 (a) and 5 (b) as set out in Article 1 of that Regulation, with the exception of measures under Objective 5 (a) which concern fisheries structures, in accordance with the criteria and objectives set out in this Regulation.

2. The conditions and criteria laid down in Regulation (EEC) No 4253/88 shall apply to measures financed under this Regulation, unless this Regulation or provisions adopted under Article 2 (1) thereof specify otherwise.

TITLE I

Speeding up the adjustment of agricultural structures in the framework of the reform of the common agricultural policy

(Objective 5 (a))

Article 2

1. The Fund may finance common measures decided on by the Council in accordance with the procedure provided for in the third subparagraph of Article 43 (2) of the Treaty, in order to speed up the adjustment of agricultural structures, in particular in the framework of the reform of the common agricultural policy.

2. The common measures referred to in paragraph 1 may concern in particular:

- where their financing is not provided for under the EAGGF Guarantee Section, market policy accompanying measures contributing to re-establishing balance between production and market capacity,
- measures to support farm incomes and to maintain viable agricultural communities in mountain, hill or less-favoured areas by means of agricultural aid such as compensation for permanent natural handicaps,
- concrete measures to encourage the installation of young farmers of either sex,
- measures to improve the efficiency of the structures of holdings, especially investments aimed at reducing production costs, promoting quality, improving the living and working conditions of farmers of either sex and of their spouses whose major activity is on the farm, promoting the diversification of their activities, including the production of non-food agricultural produce, improving animal health conditions,

livestock-farming hygiene and animal welfare, as well as preserving and improving the natural environment,

- measures to improve the marketing, including the marketing of produce at the farm, and the processing of agricultural and forestry products, and to encourage the establishment of producers' associations,
- measures to encourage assistance to farmers of either sex and for the creation of groupings with a view to improving production conditions.

3. The common measures which are applicable at present in the field covered by this Title shall remain in force until they are adjusted pursuant to Article 11a.

TITLE II

Promoting rural development and the structural adjustment of regions whose development is lagging behind

(Objective 1)

Article 3

1. Within the context of its contribution to achieving Objective 1 referred to in Article 1 of Regulation (EEC) No 2052/88, the Fund may finance measures for sustainable development of the rural environment, including developing and strengthening agricultural and forestry structures, and for maintaining, enhancing and restoring the landscape.

2. Fund assistance for regions designated under Objective 1 shall comprise, in particular, measures intended to deal with the backwardness of agricultural structures.

Article 4

Fund assistance for the measures referred to in Article 5 shall in the main take the form of operational programmes, including an intergrated approach, and global grants.

Article 5

Financial assistance by the Fund may, in addition to the measures provided for in Article 2, relate in particular to the following measures:

- (a) the conversion, diversification, reorientation and adjustment of production potential, including the production of non-food agricultural products;

- (b) promotion, quality labelling and investment for quality local or regional agricultural and forestry products;
- (c) if their financing is not ensured by the ERDF in a Community support framework and while respecting the tasks of the Funds as set out in Article 3 (3) of Regulation (EEC) No 2052/88:
- the development and improvement of rural infrastructure linked to agricultural and forestry development,
 - measures to achieve diversification, especially those providing multiple activities or alternative incomes for farmers of either sex,
 - the renovation and development of villages and the protection and conservation of the rural heritage;
- (d) reparaelling, in conditions compatible with preservation of the countryside and the natural environment of farming and forestry holdings, and associated work, in compliance with the legislation of the Member State;
- (e) individual or collective land or pasture improvement;
- (f) irrigation, including the renovation and improvement of irrigation networks and small reservoirs with a particular view to a more rational use of water; the creation of collective irrigation works from existing main channels and the creation of small irrigation systems not supplied from collective networks; and the renovation and improvement of drainage systems;
- (g) encouragement for tourist and craft investment, including the improvement of living accomodation on agricultural holdings;
- (h) restoring agricultural and forestry production potential damaged by natural disasters, and the introduction of appropriate prevention instruments, especially in the outermost areas particularly at risk from such disasters;
- (i) where their financing is not provided for under the accompanying measures adopted under the reform of the common agricultural policy;
- the development and exploitation of woodlands under the conditions laid down by Council Regulation (EEC) No 1610/89 of 29 May 1989 laying down provisions for implementing Regulation (EEC) No 4256/88
- as regards the scheme to develop and optimally utilize woodlands in rural areas in the Community ⁽¹⁾,
- protection of the environment, maintenance of the countryside and restoration of landscapes;
 - (j) development of agricultural and forestry advisory services and improvement of agricultural and forestry vocational training;
 - (k) financial engineering measures for agricultural and forestry businesses and for businesses for the processing and marketing of agricultural and forestry products;
 - (l) measures in the area of agricultural and forestry technological research and development.
- ⁽¹⁾ OJ No L 165, 15. 6. 1988, p. 3.

TITLE III

Promoting rural development in the areas covered by Objective 5 (b)

Article 6

Fund assistance for the measures referred to in Article 7 shall in the main take the form of operational programmes, including an integrated approach, and global grants and cover one or more of the measures referred to in Article 5.

Article 7

Without prejudice to the particulars referred to in Article 11a (5) of Regulation (EEC) No 2052/88 and Article 5 of Regulation (EEC) No 4253/88, rural development plans shall include an identification of the problems of agricultural structures at a relevant geographical level. As a general rule, these plans shall last six years and may be updated annually.

TITLE IV

General and transitional provisions

Article 8

In achieving the tasks set out in the second subparagraph of Article 3 (3) and as part of the assistance referred to in Article 5 (2) (e) of Regulation (EEC) No 2052/88, the Fund may devote up to 1% of its annual budget to financing:

- preparatory, *ex ante* appraisal, monitoring, *ex post* evaluation and information measures, including technical assistance measures and general studies,

- pilot projects for adjusting agricultural and forestry structures and promoting rural development,
- demonstration projects, including projects for developing and exploiting forests and projects for processing and marketing agricultural products, to show the real possibilities of systems, methods and techniques of production and management which are in accordance with the objectives of the common agricultural policy,
- the measures needed for the circulation, at Community level, of the knowledge, experience and results of the work on rural development and improving agricultural structures.

Measures implemented on the initiative of the Commission may be financed, exceptionally, at the rate of 100%; those implemented on behalf of the Commission shall be financed at the rate of 100%. For other measures, the rates given in Article 13 of Regulation (EEC) No 2052/88 shall apply.

Article 9

Where appropriate and through procedures suitable to each policy, Member States shall supply the Commission with information concerning compliance with Article 7 (1) of Regulation (EEC) No 2052/88.

Article 10

Those portions of the sums committed for the granting of assistance in respect of projects decided on by the Commission before 1 January 1989 under Regulations (EEC) No 17/64 ⁽¹⁾, (EEC) No 355/77 ⁽²⁾, (EEC) No 1760/78 ⁽³⁾, (EEC) No 269/79 ⁽⁴⁾, (EEC) No 1938/81 ⁽⁵⁾, (EEC) No 1941/81 ⁽⁶⁾, (EEC) No 1943/81 ⁽⁷⁾, (EEC) No 2088/85 ⁽⁸⁾ and (EEC) No 3974/86 ⁽⁹⁾ which have not been the subject of a request for final payment by 31 March 1995

shall be automatically released by the Commission by 30 September 1995 at the latest, without prejudice to those projects which are subject to suspension for judicial reasons.

⁽¹⁾ OJ No 34, 27. 2. 1964, p. 1586/64.

⁽²⁾ OJ No L 51, 23. 2. 1977, p. 1.

⁽³⁾ OJ No L 204, 28. 7. 1978, p. 78.

⁽⁴⁾ OJ No L 38, 14. 2. 1979, p. 1.

⁽⁵⁾ OJ No L 197, 20. 7. 1981, p. 1.

⁽⁶⁾ OJ No L 197, 20. 7. 1981, p. 13.

⁽⁷⁾ OJ No L 197, 20. 7. 1981, p. 23.

⁽⁸⁾ OJ No L 197, 27. 2. 1985, p. 1.

⁽⁹⁾ OJ No L 370, 30. 12. 1986, p. 9.

Article 11

Regulation (EEC) No 729/70, with the exception of Article 1 (1), (2) and (3), shall not apply as regards the Fund, subject to the implementation of Article 15 of Regulation (EEC) No 2052/88 and Article 33 of Regulation (EEC) No 4253/88.

Article 11a

Without prejudice to Article 33 of Regulation (EEC) No 4253/88, with a view to achieving the objectives referred to in Regulation (EEC) No 2052/88 and in the light of the rules laid down by Regulation (EEC) No 2052/88 and (EEC) No 4253/88 and of this Regulation, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 of the Treaty, shall decide by 31 December 1993 on the adjustment of the Common measures financed under Article 2 of this Regulation.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 20 July 1993.

For the Council

The President

W. CLAES

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2080/93

of 20 July 1993

laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the financial instrument of fisheries guidance

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the common fisheries policy supports the general objectives of Article 39 of the Treaty; whereas, in particular, Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽⁴⁾ contributes towards achieving a balance between conservation and the management of resources, on the one hand, and the fishing effort and the stable and rational exploitation of those resources, on the other;

Whereas fisheries structural measures should contribute to the attainment of the objectives of the common fisheries policy and the objectives of Article 130a of the Treaty;

Whereas the incorporation of structural measures in the fisheries and aquaculture sector into the operational framework resulting from the reform of the Structural Funds as laid down in Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁵⁾, and

Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁶⁾, should improve the synergy of Community operations and enable a more coherent contribution to be made to the strengthening of economic and social cohesion;

Whereas the tasks of the financial instrument for fisheries guidance (FIFG) should be defined on the basis of its contribution to the achievement of Objective 5 (a) as defined in Article 1 of Regulation (EEC) No 2052/88;

Whereas the Community should provide financial assistance in those fields which are crucial for the structural adaptation necessary to achieve the objectives of the common fisheries policy; whereas, furthermore, aid measures in this sector should be subject to compliance with the objectives of balance between resources and their exploitation;

Whereas the Council, after consulting the European Parliament, should decide at a later date on the detailed rules and conditions for the FIFG contribution to the measures for adaptation of fisheries structures in order to guarantee the coherence of the common fisheries policy;

Whereas the measures provided for will coincide with the scope of Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector ⁽⁷⁾ and that of Council Regulation (EEC) No 4042/89 of 19 December 1989 on the improvement of the conditions under which fishery and aquaculture

⁽¹⁾ OJ No C 131, 11. 5. 1993, p. 18.

⁽²⁾ Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁽⁴⁾ OJ No L 389, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ No L 185, 15. 7. 1988, p. 9. Regulation as amended by Regulation (EEC) No 2081/93 (see page 5 of this Official Journal).

⁽⁶⁾ OJ No L 374, 31. 12. 1988, p. 1. Regulation as amended by Regulation (EEC) No 2082/93 (see page 20 of this Official Journal).

⁽⁷⁾ OJ No L 376, 31. 12. 1986, p. 7. Regulation as last amended by Regulation (EEC) No 2794/92 (OJ No L 282, 26. 8. 1992, p. 3).

products are processed and marketed⁽¹⁾; whereas, therefore, these Regulations should be repealed and the detailed rules necessary for a transition preventing an interruption in structural aid should be laid down;

Whereas, however, Regulation (EEC) No 4028/86 establishes in a uniform manner the maximum amounts of aid which can be granted to each individual project directly contributing to priority requirements of the common fisheries policy; whereas the Council, after consulting the European Parliament, must continue to establish these maximum amounts in a uniform manner,

HAS ADOPTED THIS REGULATION:

Article 1

1. The structural measures implemented under this Regulation in the fisheries and aquaculture sector and the industry processing and marketing their products (hereinafter referred to as 'the sector') shall support the general objectives of Articles 39 and 130a of the Treaty and the objectives set out in Regulations (EEC) No 3760/92 and (EEC) No 2052/88.

2. The tasks of the FIFG shall be:

- (a) to contribute to achieving a sustainable balance between resources and their exploitation;
- (b) to strengthen the competitiveness of structures and the development of economically viable enterprises in the sector;
- (c) to improve market supply and the value added to fisheries and aquaculture products.

Furthermore, the FIFG shall contribute towards technical assistance and information measures, and support studies and pilot projects for the adaptation of the structures of the sector.

Article 2

1. FIFG assistance may be granted for the implementation of measures directly contributing towards ensuring compliance with the requirements of the common fisheries policy in the following fields:

- redeployment operations,
- temporary joint enterprises.
- joint ventures,
- adjustment of capacities.

⁽¹⁾ OJ No L 388, 30. 12. 1989, p. 1.

In the framework of the procedure referred to in Article 6, the Council may adapt the list of fields referred to in this paragraph.

2. Article 13 (3) of Regulation (EEC) No 2052/88 and Article 17 of Regulation (EEC) No 4253/88 shall apply to measures referred to in paragraph 1 of this Article. However, the aid granted to each individual project under measures referred to in paragraph 1 may not exceed the maximum amount to be established pursuant to the procedure provided for in Article 6.

Article 3

1. The FIFG may contribute towards the funding of investments and operations in support of one or more of the tasks referred to in Article 1 (2), in the following fields:

- restructuring and renewal of the fishing fleet,
- modernization of the fishing fleet,
- improvement of the conditions under which fishery and aquaculture products are processed and marketed,
- development of aquaculture and structural works in coastal waters,
- exploratory fishing,
- facilities at fishing ports,
- search for new markets,
- specific measures.

In the framework of the procedure provided for in Article 6, the Council may adapt the list of fields referred to in this paragraph.

2. In particular, the investments and operations referred to in paragraph 1 may cover the operating conditions on board vessels, an improvement in the selectivity of fishing methods and gear, an improvement in product quality and the introduction of Community standards for product hygiene, for health and safety at the workplace and of environment protection.

3. The limits of Community participation referred to in Article 13 (3) of Regulation (EEC) No 2052/88 and in Article 17 (3) of Regulation (EEC) No 4253/88 shall apply to the investments and operations referred to in this Article.

4. In appropriate cases, in accordance with procedures specific to each policy, Member States shall provide the Commission with information relating to compliance with the provisions of Article 7 (1) of Regulation (EEC) No 2052/88.

Article 4

Within the fields specified in Articles 2 and 3 and up to a maximum of 2% of the appropriations available annually for structural measures in the sector, the FIFG may finance:

- studies, pilot projects and demonstration projects,
- the provision of services and technical assistance for the purposes in particular of preparing, accompanying and evaluating the implementation of this Regulation,
- concerted action to remedy particular difficulties affecting specific aspects of the sector,
- information campaigns.

Measures referred to in this Article and implemented at the Commission's initiative may, exceptionally, be financed at a rate of 100%; those implemented on the Commission's behalf shall be financed at a rate of 100%.

Article 5

1. The Commission shall decide on FIFG assistance on the terms laid down in Article 14 of Regulation (EEC) No 4253/88.
2. The Member State concerned and, where appropriate, the intermediate body appointed by the Member State referred to in Article 14 (1) and Article 16 (1) of Regulation (EEC) No 4253/88 shall be notified of the decisions referred to in paragraph 1.

Article 6

Without prejudice to Article 33 of Regulation (EEC) No 4253/88 and Article 9 of this Regulation, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 of the Treaty, shall adopt, not later than 31 December 1993, the detailed rules and conditions for the FIFG contribution to the measures for adaptation of the structures of the sectors covered by this Regulation.

Article 7

1. Pursuant to Article 17 of Regulation (EEC) No 2052/88 and Article 29 (2) of Regulation (EEC) No 4253/88, a Standing Management Committee for Fisheries Structures under the auspices of the Commission is hereby established, consisting of representatives of the Member States, under the chairmanship of a representative of the Commission. The European Investment Bank shall designate a representative who shall not vote. The committee shall draw up its own rules of procedure.
2. The committee provided for in this Article shall replace the committee established in Article 11 of

Regulation (EEC) No 101/76⁽¹⁾ in all functions conferred upon it pursuant to that Regulation.

Article 8

Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the committee either on his own initiative or at the request of the representative of a Member State. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the said draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission; the votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication. The Council, acting by a qualified majority, may take a different decision within a time limit of one month.

The opinions of the committee shall be communicated to the committees referred to in Articles 27, 28 and 29 (1) of Regulation (EEC) No 4253/88.

Article 9

1. With effect from 1 January 1994, Regulations (EEC) No 4028/86 and (EEC) No 4042/89 and the provisions establishing the detailed rules for their implementation, with the exception of those of Commission Regulation (EEC) No 163/89 and decisions adopting the multiannual guidance programmes for fishing fleets for the period 1993 to 1996, are hereby repealed.

However:

- they shall remain valid for aid applications introduced before 1 January 1994,
- aid applications for projects submitted in 1993 under Regulation (EEC) No 4028/86 shall be examined and approved on the basis of that Regulation, before 1 November 1994.

Applications under Regulation (EEC) No 4028/86 for which no aid decision has been taken by 1 November 1994 shall be considered null and void. However, the

⁽¹⁾ OJ No L 20, 28. 1. 1976, p. 19.

measures and projects provided for in such applications may be taken into consideration under the detailed rules provided for in Article 6 of this Regulation.

2. Portions of sums committed as aid for projects adopted by the Commission before 1 January 1989 under Regulation (EEC) No 4028/86 for which no final application for payment has been submitted to the Commission before 31 March 1995 shall be automatically released by the Commission on 30 September 1995 at the latest, without prejudice to projects which have been suspended on legal grounds.

Portions of sums committed as aid for projects adopted by the Commission between 1 January 1989 and

31 October 1994 under Regulation (EEC) No 4028/86 for which no final application for payment has been submitted to the Commission within six years and three months of the date of decision granting the aid shall be automatically released by the Commission not later than six years and nine months after the date of aid grant, without prejudice to projects which have been suspended on legal grounds.

Article 10

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 20 July 1993.

For the Council
The President
W. CLAES

II

(Acts whose publication is not obligatory)

COUNCIL

DECISION OF THE COUNCIL OF THE EUROPEAN UNION

of 1 January 1995

adjusting the instruments concerning the accession of new Member States to the European Union

(95/1/EC, Euratom, ECSC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Kingdom of Norway, the Republic of Austria, the Republic of Finland, the Kingdom of Sweden, concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and in particular Article 2 thereof;

Whereas the Kingdom of Norway has not deposited its instruments of ratification in due time and has therefore not become a member of the European Union on 1 January 1995;

Whereas adjustments to certain provisions listed in Article 2 referred to above have therefore become indispensable;

Whereas it is further necessary to adjust those provisions of the Act concerning the Conditions of Accession and the Adjustments to the Treaties which refer expressly to Norway or to declare that those provisions have lapsed;

HAS DECIDED:

Article 1

The following is substituted for Article 3 of the Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the

Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Kingdom of Norway, the Republic of Austria, the Republic of Finland, the Kingdom of Sweden, concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union:

'Article 3

This Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Norwegian, Portuguese, Spanish and Swedish languages, the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish texts all being equally authentic, shall be deposited in the archives of the Government of the Italian Republic which will transmit a certified copy to each of the Governments of the other signatory states.'

Article 2

The following is substituted for the title of the Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded:

'Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded'

The Act referred to above is hereinafter also referred to as 'the Act of Accession'.

NOTING, in particular, that Sweden and Finland are committed to preserving and developing the means of livelihood, language, culture and way of life of the Sami people,

CONSIDERING the dependence of traditional Sami culture and livelihood on primary economic activities, such as reindeer husbandry in the traditional areas of Sami settlement,

HAVE AGREED on the following provisions,

Article 1

Notwithstanding the provisions of the EC Treaty, exclusive rights to reindeer husbandry within traditional Sami areas may be granted to the Sami people.

Article 2

This Protocol may be extended to take account of any further development of exclusive Sami rights linked to their traditional means of livelihood. The Council may, acting unanimously on a proposal from the Commission, and after consulting the European Parliament and the Committee of Regions, adopt the necessary amendments to the Protocol.'

Article 50

The provisions of Protocol No 4 annexed to the Act of Accession have lapsed.

Article 51

The following is substituted for Protocol No 5 annexed to the Act of Accession:

'Protocol No 5

on the participation of the new Member States in the funds of the European Coal and Steel Community

The contribution of the new Member States to the funds of the European Coal and Steel Community shall be fixed as follows:

— the Republic of Austria	ECU 15 300 000
— the Republic of Finland	ECU 12 100 000
— the Kingdom of Sweden	ECU 16 700 000.

These contributions shall be paid in two equal interest-free instalments, the first on 1 January 1995 and the second on 1 January 1996.'

Article 52

The following is substituted for Protocol No 6 annexed to the Act of Accession:

'Protocol No 6

on special provisions for Objective 6 in the framework of the Structural Funds in Finland and Sweden

THE HIGH CONTRACTING PARTIES,

Having regard to requests by Finland and Sweden for special Structural Fund support for their least densely populated regions,

Whereas the Union has proposed a new complementary priority Objective 6,

Whereas this transitional arrangement will also be re-evaluated and revised simultaneously with the main framework Regulation (EEC) No 2081/93 on structural instruments and policies in 1999,

Whereas the criteria and the list of regions eligible for this new Objective have to be decided upon,

Whereas additional resources will be made available for this new Objective,

Whereas the procedures applying to this new Objective have to be defined,

HAVE AGREED AS FOLLOWS:

Article 1

Until 31 December 1999, the Structural Funds, the Financial Instrument for Fisheries Guidance (FIFG) and the European Investment Bank (EIB) shall each contribute in an appropriate fashion to a further priority Objective in addition to the five referred to in Article 1 of Council Regulation (EEC) No 2052/88, as amended by Council Regulation (EEC) No 2081/93, which Objective shall be:

— to promote the development and structural adjustment of regions with an extremely low population density (hereinafter referred to as "Objective 6").

Article 2

Areas covered by Objective 6 shall in principle represent or belong to regions at NUTS level II with a population density of 8 persons per km² or less. In addition, Community assistance may, subject to the requirement of concentration, also extend to adjacent and contiguous smaller areas fulfilling the same population density criterion.

Such regions and areas, referred to in this Protocol as "regions" covered by Objective 6, are listed in Annex I.

Article 3

For the period 1995 to 1999 the sum of ECU 741 million, at 1995 prices, shall be considered the appropriate amount of Community resources to be committed by the Structural Funds and the FIGF in the regions covered by Objective 6 listed in Annex 1. Annex 2 sets out the breakdown of resources by year and Member State. Those resources shall be in addition to the funds already scheduled for payment from the Structural Funds and the FIGF pursuant to Council Regulation (EEC) No 2052/88, as amended by Council Regulation (EEC) No 2081/93.

Article 4

Subject to Articles 1, 2 and 3 above, the provisions of the undernoted Regulations, in particular the provisions applying to Objective 1, shall apply to Objective 6:

- Council Regulation (EEC) No 2080/93,
- Council Regulations (EEC) Nos 2052/88, 4253/88, 4254/88, 4255/88 and 4256/88, as amended by Council Regulations (EEC) Nos 2081/93, 2082/93, 2083/93, 2084/93 and 2085/93.

Article 5

The provisions of this Protocol, including the eligibility of the regions listed in Annex 1 for assistance from the Structural Funds, shall be re-examined in 1999 simultaneously with the framework Regulation (EEC) No 2081/93 on structural instruments and policies and in accordance with the procedures laid down in that Regulation.

ANNEX 1

Regions covered by Objective 6

Finland:

The northern and eastern NUTS level II regions made up of the "Maakunta" (NUTS level III region) of Lappi and the three "Maakunnat" of Kainuu, Pohjois-Karjala and Etelä-Savo and including the following adjacent areas:

- in the "Maakunta" of Pohjois-Pohjanmaa: the "Seutukunnat" of Ii, Pyhäntä, Kuusamo and Nivala
- in the "Maakunta" of Pohjois-Savo: the "Seutukunta" of Nilsjä
- in the "Maakunta" of Keski-Suomi: the "Seutukunnat" of Saarijärvi and Viitasaari

- in the "Maakunta" of Keski-Pohjanmaa: the "Seutukunta" of Kaustinen.

Sweden:

The NUTS level II region of northern Sweden made up of the "län" (NUTS level III region) of Norrbotten, Västerbotten and Jämtland, excluding the following areas:

- in Norrbotten: the "kommun" of Luleå, the "församling" of Övertuleå in the "kommun" of Boden and the "kommun" of Piteå (except the "folkbokföringsdistrikt" of Markbygden)
- in Västerbotten: the "kommuner" of Nordmaling, Robertsfors, Vännäs and Umeå and the "församlingar" of Boliden, Bureå, Burträsk, Byske, Kägedalen, Lövänger, Sankt Olov, Sankt Örjan and Skellefteå in the "kommun" of Skellefteå

but including the following adjacent areas:

- in the "län" of Västernorrland: the "kommuner" of Ånge and Sollefteå, the "församlingar" of Holm and Liden in the "kommun" of Sundsvall, and the "församlingar" of Anundsjö, Björna, Skorped and Trehörningsjö in the "kommun" of Örnsköldsvik
- in the "län" of Gävleborg: the "kommun" of Ljusdal
- in the "län" of Kopparberg: the "kommuner" of Älvdalen, Vansbro, Orsa and Malung and the "församlingar" of Venjan and Våmhus in the "kommun" of Mora
- in the "län" of Värmland: the "kommun" of Torsby.

The references to NUTS in this Annex do not prejudice the final definitions of NUTS levels in the abovementioned regions and areas.

ANNEX 2

Indicative commitment appropriations for Objective 6

	Million ECU of 1995 prices					
	1995	1996	1997	1998	1999	1995-1999
Finland	90	95	101	110	115	511
Sweden	41	43	46	49	51	230
Total	131	138	147	159	166	741

These figures include, in addition to appropriations allocated to Objectives 3, 4 and 5a, where relevant, commitment appropriations for pilot projects, innovative actions, studies and Community initiatives under Articles 3 and 12 (5) of Council Regulation (EEC) No 2052/88, as amended by Council Regulation (EEC) No 2081/93.⁷

Article 53

The provisions of Protocol No 7 annexed to the Act of Accession have lapsed.

Article 54

The reference to Norway in Annex 4 of Protocol No 9 has lapsed.

Article 55

This Decision, drawn up in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian,

Portuguese, Spanish and Swedish languages, all twelve texts being equally authentic, shall enter into force on 1 January 1995.

Article 56

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 1 January 1995.

For the Council

The President

A. JUPPÉ

ANNEX

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(a) The following is added to Article 1 (2) (a):

‘ÖBB: Österreichische Bundesbahnen
VR: Valtionrautatiet/Statsjärnvägarna
SJ: Statens järnvägar’

(b) In Annex II, the following is inserted after the entries for the Netherlands:

‘Austria:
Burgenland
Niederösterreich
Wien
Kärnten
Steiermark
Oberösterreich
Salzburg
Tirol
Vorarlberg’

and, after the entries for Portugal:

‘Finland:

pending decision on NUTS classification (NUTS 2 to be used)

Sweden:

pending decision on NUTS classification (NUTS 2 to be used)’

(c) In Annex III the list of countries is amended as follows:

The first part is replaced by the following:

‘I. European Communities
01. Belgium
02. Denmark
03. Germany
04. Greece
05. Spain
06. France
07. Ireland
08. Italy
09. Luxembourg
10. Netherlands
11. Austria
12. Portugal
13. Finland
14. Sweden
15. United Kingdom’

In the second part, the references to ‘Austria’, ‘Sweden’ and ‘Finland’ are deleted and numbers 13 to 28 become 16 to 28.

XVI. CONSUMER PROTECTION

392 X 0579: Commission Recommendation 92/579/EEC of 27 November 1992 calling upon Member States to set up the infrastructures needed to identify dangerous products at the external frontiers (OJ No L 374, 22.12.1992, p. 66).

In point V (4), the following is added:

- Vaarallinen tuote — ei saa laskea vapaaseen liikkeeseen. Suositus 92/579/ETY
— Farlig produkt — ej godkänd för fri omsättning. Rekommendation 92/579/EEG’.

XVII. STRUCTURAL AND REGIONAL POLICY

388 R 2052: Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments (OJ No L 185, 15.7.1988, p. 9), as last amended by:

- 393 R 2081: Council Regulation (EEC) No 2081/93 of 20 July 1993 (OJ No L 193, 31.7.1993, p. 5).

1. The following is added to Article 12 (1):

'As noted in Annex III, the additional resources available for the four new Member States for Objectives 1 to 5b will be, for the period 1995 to 1999, ECU 4 006 million at 1995 prices.

The annual breakdown of these resources by Member State is shown in Annex III'.

2. The following is added to Annex I:

'AUSTRIA: Burgenland'.

3. The following is added as Annex III:

'ANNEX III

Indicative commitment appropriations for new Member States

	<i>(MECU at 1995 prices)</i>					
	1995	1996	1997	1998	1999	1995-1999
Structural Funds (Objectives 1 to 5b) and FIG	760	783	802	821	840	4 006
of which:						
Austria	308	317	325	332	341	1 623
Finland	225	233	239	245	251	1 193
Sweden	227	233	238	244	248	1 190
p.m. Objective 1 regions	32	34	37	39	42	184

1. These figures are indicative only. Actual allocations by Objective will be determined by the application of the Structural Funds Regulation, as for present Member States.

2. These figures include any commitments for pilot projects, innovative actions, studies and Community initiatives according to Articles 3 and 12 (5).'

XVIII. MISCELLANEOUS

EEC Acts

358 R 0001: Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ No 17, 6.10.1958, p. 385/58), as amended by:

— 172 B: Act concerning the conditions of accession and the adjustments to the Treaties — Accession of the Kingdom of Denmark, Ireland and the United Kingdom (OJ No L 73, 27.3.1972, p. 14),

— 179 H: Act concerning the conditions of accession and the adjustments to the Treaties — Accession of the Hellenic Republic (OJ No L 291, 19.11.1979, p. 17),

— 185 I: Act concerning the conditions of accession and the adjustments to the Treaties — Accession of the

Kingdom of Spain and the Portuguese Republic (OJ No L 302, 15.11.1985, p. 23).

(a) Article 1 is replaced by the following:

'Article 1

The official languages and the working languages of the institutions of the Union shall be Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish.'

(b) Article 4 is replaced by the following:

'Article 4

Regulations and other documents of general application shall be drafted in the eleven official languages.'

**COUNCIL REGULATION (EC) No 3193/94
of 19 December 1994**

amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments, and Regulation (EEC) No 4253/88 implementing Regulation (EEC) No 2052/88

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the 1994 Act of Accession, and in particular Article 169 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽¹⁾, has been amended by Regulation (EEC) No 2081/93⁽²⁾;

Whereas Article 9 (6) of Regulation (EEC) No 2052/88 as thus amended specifies that assistance granted in respect of Objective 2 for the existing Member States is to be planned and implemented on a three-yearly basis; whereas in order to ensure its effectiveness and continuity, assistance for the new Member States, where that Member State so requests, can exceptionally be planned and implemented on a five-yearly basis;

Whereas Regulation (EEC) No 4253/88⁽³⁾ implementing Regulation (EEC) No 2052/88 has been amended by Regulation (EEC) No 2082/93⁽⁴⁾;

Whereas Article 15 (2) of Regulation (EEC) No 4253/88 as thus amended provides that expenditure may not be considered eligible for assistance from the Funds if incurred before the date on which the corresponding application reaches the Commission; whereas that rule was subject to the transitional provision in Article 33 (2) whereby requests for expenditure received by the Commission between 1 January and 30 April 1994 might

be regarded as eligible for assistance from 1 January 1994;

Whereas an analogous transitional provision is required for the States which will accede to the European Union pursuant to the 1994 Act of Accession; whereas Regulation (EEC) No 4253/88 must therefore be amended accordingly;

Whereas by virtue of Article 2 (3) of the 1994 Treaty of Accession, the institutions of the Community may adopt, prior to accession, the measures pursuant to Article 169 of the 1994 Act of Accession, such measures entering into force on the date of the said Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph shall be added to Article 9 (6) of Regulation (EEC) No 2052/88:

'On an exceptional basis, the Commission can accede to a request from Austria, Finland or Sweden that assistance under Objective 2 be planned and implemented for the whole period from 1995 to 1999.'

Article 2

The following subparagraph shall be added to Article 33 (2) of Regulation (EEC) No 4253/88:

'Notwithstanding Article 15 (2), requests for expenditure received by the Commission from Austria, Finland and Sweden within four months of the date of entry into force of the 1994 Treaty of Accession of those countries and fulfilling all the conditions pursuant to Article 14 (2) may be regarded as eligible for assistance from the Funds from the date of entry into force of the 1994 Treaty of Accession.'

Article 3

This Regulation shall enter into force on the same day as the 1994 Treaty of Accession.

⁽¹⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽²⁾ OJ No L 193, 31. 7. 1993, p. 5.

⁽³⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽⁴⁾ OJ No L 193, 31. 7. 1993, p. 20.

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

Done at Brussels, 19 December 1994.

For the Council

The President

K. KINKEL

Part Two:

The Cohesion Fund

Commentary
and regulations

Commentary

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I. Operating principles

A. Eligible countries

The Maastricht treaty provides that the financial contributions from the Cohesion Fund should be granted to "Member States with a per capita GNP of less than 90% of the Community average which have a programme leading to the fulfilment of the conditions of economic convergence."

The regulation establishing the Cohesion Fund states in addition that, until the end of 1999, the four Member States which "currently" meet the above criterion are the only potential beneficiaries of the fund. These countries are Greece, Ireland, Portugal and Spain.

The regulation also stipulates that, after a mid-term review in 1996, Member States whose GNP exceeds the 90% threshold will lose their entitlement to assistance from the fund.

Cohesion Fund regulation
Art. 2

I. Operating principles

B. Conditional assistance

In addition to the geographical limits on eligibility, assistance from the Cohesion Fund is tied to macro-economic conditions.

As provided for by the Maastricht treaty, the Member States concerned must establish programmes leading to the fulfilment of the conditions of economic convergence as set out in Article 104c of the treaty and aiming to avoid excessive government deficits.

In the event of the Council deciding that an excessive government deficit exists in a Member State, no new projects or, in the case of large multi-stage projects, no new stages of a project shall be financed from the fund for that Member State. The suspension of financing shall last until the decision is abrogated by a new Council decision.

I. Operating principles

C. Eligible measures

The Cohesion Fund finances two types of project:

- environmental projects contributing to Community environmental policy and, in particular, to the priorities of the fifth programme of policy and action in relation to the environment and sustainable development;
- projects of common interest in the area of transport infrastructure, provided they are part of the implementation of the priority trans-European networks identified by the Community.

In addition, the Cohesion Fund may also finance studies and technical support measures which contribute to projects (preliminary studies, comparative studies to assess the impact of Community assistance, adjustments necessary for the implementation of projects, etc.).

II. Implementing procedures

A. Available resources

The European Council meeting of December 1992 set a budget appropriation for the Cohesion Fund for the 1993-1999 period, and an annual breakdown:

In millions of ecus at 1992 prices

Year	1993	1994	1995	1996	1997	1998	1999	Total
Amount	1500	1750	2000	2250	2500	2550	2600	15 150

As for the breakdown of these amounts between the Member States concerned, the regulation establishing the Cohesion Fund sets minimum and maximum limits for each country on the basis of criteria such as population, per capita GNP and surface area.

Spain: 52-58% of the total
Greece: 16-20% of the total
Portugal: 16-20% of the total
Ireland: 7-10% of the total

B. Rate of Community assistance, cumulation and overlapping

The rate of Community assistance granted by the fund is between 80 and 85% of public or equivalent expenditure.

Where assistance is granted for a project which generates revenue (for example, infrastructure for which the user is directly charged or a productive investment in the environmental sector), the total Community assistance is established by the Commission, taking account of net forecast revenue, in close collaboration with the beneficiary Member State.

For studies and technical support measures, Cohesion Fund assistance may reach 100% of the total cost. However, this form of expenditure may not exceed 0.5% of the total allocation to the fund.

With respect to cumulation and overlapping, no item of expenditure may benefit both from the Cohesion Fund and from one of the Structural Funds.

Projects benefiting from Cohesion Fund assistance may also receive assistance from other Community instruments such as the Community financial instrument for trans-European networks or the Life programme for environmental projects. In total, Community support granted to a project may not exceed 90% of total and related costs.

II. Implementing procedures

C. From cohesion instrument to Cohesion Fund

A number of difficulties had to be overcome before the Cohesion Fund could be established and implemented.

The main problem was the delay in ratifying the Maastricht treaty. As a consequence, the Cohesion Fund could not be established before December 1993, under Article 130d(2) of the treaty.

However, decisions taken by the heads of State and government at the European Council meeting held in Edinburgh in December 1992, and in particular their move to anticipate the Maastricht treaty by providing for the establishment of a cohesion financial instrument, minimised the impact of the delays. Active and intense collaboration between the various institutions - the European Commission, the Economic and Social Committee, the European Parliament and the Council of Ministers itself - enabled the cohesion financial instrument to come into force on 1 April 1993.

The regulation establishing the Cohesion Fund was adopted on 16 May 1994. It came into force on 26 May of that year, replacing the cohesion instrument.

Regulations

- Council Regulation (EEC) No. 792/93 of 30 March 1993 establishing a financial cohesion instrument 107
- Council regulation (EEC) No. 1164/94 of 16 May 1994 establishing the Cohesion Fund 113

COUNCIL REGULATION (EEC) No 792/93
of 30 March 1993
establishing a cohesion financial instrument

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 130a of the Treaty provides for the Community to develop and pursue its actions leading to the strengthening of its economic and social cohesion and in particular for it to aim at reducing disparities between the various regions and the backwardness of the least-favoured regions;

Whereas promoting economic and social cohesion calls for Community action to supplement the activities of the Structural Funds, the European Investment Bank and other financial instruments in the fields of the environment and of transport infrastructure of common interest;

Whereas the European Parliament adopted a resolution ⁽⁴⁾ on 10 June 1992 regarding the Commission's communication of 11 February 1992 ⁽⁵⁾;

Whereas the European Council, pursuant to its meeting in Lisbon on 26 and 27 June 1992, invited, at its meeting in Edinburgh on 11 and 12 December 1992, the Commission to propose and the Council to adopt, before 1 April 1993, a regulation for an interim financial instrument pending the establishment of the Cohesion Fund and determined, for this interim financial instrument, the recipient States, the criteria and indicative allocation brackets in such a way as to ensure the provision of financial aid to Ireland, Greece, Portugal and Spain;

Whereas, given the conclusions of the European Council and given the impossibility of implementing, on the basis of Article 235 of the EEC Treaty, the set of conditions which are linked to Article 104c of the Treaty on European Union, signed in Maastricht on 7 February 1992, the financial instrument should be of a temporary nature; whereas it should be replaced as soon as possible by the Cohesion Fund as envisaged in Article 130d of the said Treaty;

Whereas the financial resources of the financial instrument should be those provided for the Cohesion Fund in the

financial perspectives for the general budget of the European Communities for the years for which the financial instrument applies; whereas in 1994 the commitments must be proportionate to the duration of the financial instrument for that year and must comply with the requirement of continuity from the financial instrument to the Cohesion Fund;

Whereas the promotion of economic and social cohesion calls for a concentration of the funds available to the cohesion financial instrument on projects concerning the environment and transport infrastructure of common interest in Member States with a per capita GNP of less than 90 % of the Community average;

Whereas each beneficiary Member State should have a convergence programme examined by the Council, designed to avoid excessive government deficits;

Whereas Title IV of Part Two of the Treaty provides that the Council shall lay down any appropriate provisions to implement a common transport policy; whereas the Community should make a contribution, through the cohesion financial instrument, to trans-European networks in the area of transport infrastructure; whereas projects financed by the financial instrument should form part, as far as possible, of trans-European network guidelines which have been adopted by the Council or proposed by the Commission;

Whereas Article 130r of the Treaty defines the objectives of the Community in the field of the environment; whereas the Community should contribute, through the cohesion financial instrument, to actions targeted to achieve these objectives including actions taken pursuant to Article 130s of the Treaty;

Whereas an appropriate balance must be ensured between financing for transport infrastructure projects and for environmental projects;

Whereas in the light of an undertaking by the Member States concerned not to decrease their investment efforts in the field of environmental protection and transport infrastructure, additionality within the meaning of Article 9 of Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and other existing financial instruments ⁽⁶⁾ will not apply to the cohesion financial instrument;

Whereas it is necessary to coordinate action taken in the fields of the environment and trans-European transport networks through the cohesion financial instrument, the Structural Funds, the European Investment Bank and the

⁽¹⁾ OJ No C 38, 12. 2. 1993, p. 18 and amended proposal transmitted on 22 March 1993.

⁽²⁾ Opinion delivered on 11 March 1993 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 25 February 1993 (not yet published in the Official Journal).

⁽⁴⁾ OJ No C 176, 13. 7. 1992, p. 74.

⁽⁵⁾ COM(92) 2000.

⁽⁶⁾ OJ No L 374, 31. 12. 1988, p. 1.

other financial instruments in order to enhance the effectiveness of Community operations;

Whereas, with a view to helping Member States in the preparation of projects, the Commission should be in a position to ensure that they have the necessary technical support;

Whereas in the interests of the proper management of the cohesion financial instrument, it is necessary to ensure effective methods of monitoring, assessing and carrying out checks in respect of Community operations;

Whereas, to ensure value for money, thorough appraisal should precede the commitment of Community resources in order to ensure that they yield economic benefits in keeping with the resources deployed;

Whereas the operations of the cohesion financial instrument must be consistent with Community policies, including those regarding environmental protection, transport, competition and the award of public contracts;

Whereas an indicative allocation of commitment appropriations between the Member States should be provided for in order to facilitate the programming of projects;

Whereas it is necessary, given the requirements of economic and social cohesion, to provide a high rate of assistance;

Whereas provision should be made to give adequate publicity to Community assistance provided by the cohesion financial instrument;

Whereas adequate information should be given in particular through an annual report provided for in Article 10 of this Regulation and in Annex II thereto;

Whereas the Treaty does not provide, for the adoption of this Regulation, for powers other than those contained in Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

Definition and scope

A cohesion financial instrument (hereinafter referred to as 'the financial instrument') is hereby established, whereby the Community shall provide financial contributions to projects in the fields of the environment and trans-European transport infrastructure networks in those Member States which have a per capita GNP of less than 90 % of the Community average measured according to purchasing power parities, *viz.* Greece, Spain, Ireland and Portugal, each of which shall have a convergence

programme examined by the Council and designed to avoid an excessive government deficit.

Article 2

Eligible projects

The financial instrument may provide assistance for:

- environmental projects contributing to the achievement of the objectives of Article 130r of the Treaty, including projects resulting from action taken pursuant to Article 130s of the Treaty,
- transport infrastructure projects of common interest financed by Member States which promote the interconnection and interoperability of national networks and access to such networks, taking account in particular of the need to link insular, landlocked or peripheral regions with the central regions of the Community, in particular the projects which are provided for in trans-European network schemes which have been adopted by the Council or proposed by the Commission in accordance with Title IV of Part Two of the Treaty,
- preparatory studies, in particular prior appraisals and analyses of costs and benefits, and technical support measures related to eligible projects.

Article 3

Financial resources

The amounts available for commitment appropriations for the financial instrument shall be ECU 1 500 million in 1993 and ECU 1 750 million for the whole of 1994 expressed in 1992 prices.

In compliance with Article 203 of the Treaty the budgetary authority shall decide in accordance with the first paragraph of this Article, as part of the budget procedure, which appropriations are to be made available for each financial year.

Commitments pursuant to this instrument in 1994 shall be proportionate to the duration of the instrument in 1994 in accordance with Article 11.

Article 4

Indicative allocation

The indicative allocation of the total resources of the financial instrument shall be based on precise and objective criteria, principally on population, GNP per capita and surface area; it shall also take account of other socio-economic factors, such as deficiencies in transport infrastructure.

The application of these criteria leads to the indicative allocation laid down in Annex I.

*Article 5***Rate of assistance**

1. The rate of assistance granted by the financial instrument shall be between 80 and 85 % of public or similar expenditure as defined for the purposes of the Structural Funds. The effective rate of assistance shall be established in accordance with the nature of the operations to be undertaken.

2. Preliminary studies, in particular prior appraisals and analyses of costs and benefits, and technical support measures necessary for the appraisal, assessment and possible adjustment of eligible projects may be financed at 100 % of total cost in exceptional cases.

The total expenses on the basis of this paragraph shall not exceed 0,5 % of the total allocation of the financial instrument.

*Article 6***Coordination and compatibility with Community policies**

1. Projects financed by the financial instrument shall be in conformity with the provisions of the Treaty, with the instruments adopted pursuant thereto and with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts.

2. The Commission shall ensure coordination and coherence between projects undertaken in pursuance of this Regulation and measures undertaken with contributions from the Community budget, the European Investment Bank and the other financial instruments of the Community.

*Article 7***Combination and overlapping**

1. No item of expenditure may benefit both from the financial instrument and from the European Agricultural Guidance and Guarantee Fund, the European Social Fund or the European Regional Development Fund.

2. Combined support from the financial instrument and other Community grants shall not exceed 90 % of total expenditure.

*Article 8***Approval of projects**

1. The projects to be financed under the financial instrument shall be decided upon by the Commission in agreement with the beneficiary Member State.

2. An appropriate balance shall be ensured between projects in the fields of environment and of transport infrastructure.

3. Applications for assistance in accordance with Article 2 shall be submitted by the beneficiary Member State. Projects, including groups of related projects, shall be of a sufficient scale to have a significant impact in the fields of environmental protection or in the improvement of trans-European transport infrastructure networks.

4. Applications shall contain the following information: the body responsible for implementation, the nature of the investment, its location and costs, the timetable for implementation, the financing plan and the total financing the Member State is seeking from the financial instrument and any other Community source. They shall also contain any information necessary to show that the projects are in accordance with this Regulation.

5. The following criteria shall be employed to ensure the high quality of the projects:

- their medium-term economic and social benefits, which shall be commensurate with the resources deployed; an assessment shall be made in the light of an analysis of costs and benefits,
- the priorities established by the beneficiary Member States,
- the contribution which projects can make to the implementation of Community policies on the environment and trans-European networks,
- the compatibility of projects with Community policies and their consistency with other Community structural measures,
- the achievement of an appropriate balance between the fields of the environment and of transport infrastructure.

6. Subject to the availability of commitment appropriations, the Commission shall decide on assistance from the financial instrument generally within three months of receipt of the applications. Commission decisions approving projects or groups of related projects shall determine the amount of financial assistance, a financing plan and all the provisions and conditions necessary for the realization of the projects.

7. The decisions of the Commission shall be published in the *Official Journal of the European Communities*.

Article 9

Financial provisions, monitoring and assessment

1. The Commission may, in agreement with the beneficiary Member State concerned, identify technically and financially discrete stages of a project for the purpose of granting assistance from the financial instrument.

2. Expenditure shall not be considered eligible for assistance from the financial instrument if incurred before the date on which the corresponding application reaches the Commission. However, for applications presented to the Commission before 1 September 1993, expenditure incurred after 1 January 1993 may be regarded as eligible.

3. For the implementation of this Regulation, the following provisions of Titles VI and VII of Regulation (EEC) No 4253/88 shall apply *mutatis mutandis*: Articles 19 (1), 20 (1), 21 (1) except the last sentence, 21 (5) and (7), 22, 23, 24, 25 except the last sentence of (4) and (7).

4. The total amount of assistance from the financial instrument for each operation (project, stage of a project, study or technical support measure) shall be committed when the Commission adopts the decision approving the operation.

5. Payments of financial assistance for a project or a stage of a project shall be made in accordance with the following provisions :

(a) the advance made following the decision may be up to 50 % of the amount of assistance related to the expenditure planned for the first year as indicated in the financial plan approved by the Commission. However, for 1993 exceptionally, the advance may be up to two-thirds of this amount, for the projects submitted before 1 September 1993 ;

(b) interim payments may be made provided that the project is progressing satisfactorily towards completion and that two-thirds of the expenditure relating to the preceding payment and all the expenditure relating to previous payments has been incurred. Interim payments may be up to 50 % of the assistance related to the expenditure planned for the year concerned as indicated in the financial plan approved by the Commission, adjusted, where necessary, to take account of progress in implementing the project ;

(c) the balance of assistance for an operation shall be paid provided

— the project or stage has been completed in accordance with the objectives laid down,

— the beneficiary Member State or the designated authority submits a request for payment to the

Commission within the six months following physical completion of the project, and

— the final report referred to in Article 25 (4) of Regulation (EEC) No 4253/88 has been submitted to the Commission.

The balance may not be less than 20 % of the total assistance granted.

6. Payments shall be made to the authority or body designated by the Member States and shall, as a general rule, be made not more than two months after receipt of a valid request for payment.

7. The beneficiary Member States concerned shall provide the Commission with a description of the management and audit systems established to ensure that projects are effectively implemented.

The Commission shall examine applications with a view in particular to checking that the administrative and financial mechanisms are adequate to ensure effective implementation.

Beneficiary Member States shall regularly inform the Commission of all cases of irregularity that have been discovered by an administrative authority or have been the subject of judicial proceedings. Beneficiary Member States and the Commission must take all the security measures necessary to ensure that information exchanged between them remains confidential.

8. In order to ensure the effectiveness of Community assistance, the Commission and the beneficiary Member States concerned shall, in cooperation with the European Investment Bank where appropriate, carry out a systematic assessment of projects.

On receipt of a request for assistance and before approving a project, the Commission shall carry out a thorough prior appraisal in order to assess the project's consistency with the criteria laid down in Article 8 (5) and to establish its expected impact, quantified on the basis of appropriate indicators, by reference to the objectives of the financial instrument. The beneficiary Member State concerned shall provide the necessary information, including the results of feasibility studies and prior assessments, to enable this appraisal to be carried out as effectively as possible.

During the implementation of projects, and after their completion, the Commission and the beneficiary Member States concerned shall assess the manner in which they have been carried out and the potential and actual impact of their implementation in order to judge whether the original objectives can be or have been achieved.

9. The detailed rules for monitoring and assessment shall be laid down in the decisions approving projects.

*Article 10***Information and publicity**

1. The Commission shall submit a report on the operation of the financial instrument for consideration by the European Parliament, the Council and the Economic and Social Committee five months, at the latest, after the date of expiry of the instrument.

The information mentioned in this report is listed in Annex II.

2. Member States shall ensure that adequate publicity is given to the operation of the financial instrument with a view to making the general public aware of the role played by the Community in relation to projects. They

shall consult the Commission on, and inform it about, the initiatives taken for this purpose.

*Article 11***Entry into force**

This Regulation shall enter into force on 1 April 1993.

It shall remain in force until the entry into force of a regulation establishing a Cohesion Fund and until 1 April 1994 at the latest.

Should a regulation establishing a Cohesion Fund not be in force by 1 April 1994, the Council, acting by a qualified majority on a proposal from the Commission, shall take a decision regarding the extension of the financial instrument, for a limited period, in order to ensure continuity between the financial instrument and the Cohesion Fund.

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

Done at Brussels, 30 March 1993.

For the Council

The President

S. AUKEN

*ANNEX I***Indicative allocation of the total resources of the financial instrument among beneficiary Member States**

- Spain : 52 to 58 % of the total.
 - Greece : 16 to 20 % of the total.
 - Portugal : 16 to 20 % of the total.
 - Ireland : 7 to 10 % of the total.
-

*ANNEX II***Information referred to in Article 10 (1)**

The Annual Report will provide information on the following :

1. Financial assistance committed and paid from the financial instrument, with an annual breakdown by Member States and by category of projects (environment and transport).
 2. The economic and social impact of the financial instrument in Member States.
 3. Summary information on the convergence programmes in Greece, Spain, Ireland and Portugal.
 4. The contribution which the financial instrument has made to the efforts of beneficiary Member States to implement Community environment policy and to strengthen trans-European transport infrastructure networks ; the balance between projects in the fields of environment and projects relating to transport infrastructure.
 5. Assessment of the comptability of the operations of the financial instrument with Community policies including those concerning environmental protection, transport, competition and the award of public contracts.
 6. Information on measures to ensure coordination and coherence between projects financed under the financial instrument and measures undertaken with contributions from the Community budget, the European Investment Bank and the other financial instruments of the Community.
 7. Information on the investment efforts of the beneficiary Member States in the fields of environmental protection and transport infrastructure.
 8. Information on preparatory studies and on technical support measures financed, including a specification of the types of such studies and measures.
 9. Information on the results of monitoring and assessment of projects including information on any adjustment of projects to accord with the results of monitoring and assessment.
 10. Information on the contribution of the European Investment Bank to the assessment of projects.
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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1164/94
of 16 May 1994
establishing a Cohesion Fund**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular the second subparagraph of Article 130d thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the assent of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the opinion of the Committee of the Regions ⁽⁴⁾,

Whereas Article 2 of the Treaty includes the task of promoting economic and social cohesion and solidarity among Member States as objectives essential to the Community's development and success; whereas the strengthening of such cohesion is referred to in point (j) of Article 3 of the Treaty as one of the activities of the Community for the purposes set out in Article 2 of the Treaty;

Whereas Article 130a of the Treaty provides for the Community to develop and pursue its actions leading to the strengthening of its economic and social cohesion, and provides in particular that it shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least-favoured regions; whereas Community action through the Cohesion Fund should support the achievement of the objectives set out in Article 130a;

⁽¹⁾ OJ No C 39, 9. 2. 1994, p. 6.

⁽²⁾ Assent given on 5 May 1994 (not yet published in the Official Journal).

⁽³⁾ OJ No C 133, 16. 5. 1994.

⁽⁴⁾ Opinion delivered on 5 April 1994 (not yet published in the Official Journal).

Whereas the conclusions of the European Councils held in Lisbon on 26 and 27 June 1992 and in Edinburgh on 11 and 12 December 1992 concerning the establishment of the Cohesion Fund set out the principles governing it;

Whereas the promotion of economic and social cohesion requires action by the Cohesion Fund in addition to that taken through the Structural Funds, the European Investment Bank and the other financial instruments in the fields of the environment and transport infrastructure of common interest;

Whereas the Protocol on economic and social cohesion annexed to the Treaty establishing the European Community reaffirms the Community's task of promoting economic and social cohesion and solidarity between Member States and specifies that a Cohesion Fund will provide a financial contribution to projects in the fields of the environment and trans-European networks in the Member States subject to two conditions: firstly that they have a per capita gross national product (GNP) of less than 90 % of the Community average and secondly that they have a programme leading to the fulfilment of the conditions of economic convergence as set out in Article 104c of the Treaty; whereas the relative prosperity of Member States is best assessed on the basis of per capita GNP, measured in purchasing power parities;

Whereas meeting the convergence criteria which are a precondition for moving to the third stage of economic and monetary union calls for a determined effort from the Member States concerned; whereas, in this context, all of the beneficiary Member States are to submit to the Council a convergence programme designed for that purpose and to avoid excessive government deficits;

Whereas the second subparagraph of Article 130d of the Treaty states that the Council is to set up a Cohesion Fund before 31 December 1993 to provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure;

Whereas Article 129c (1) of the Treaty provides that the Community may contribute through the Cohesion Fund to the financing of specific projects in the Member States in the area of transport infrastructure, whilst taking into account the potential economic viability of the projects; whereas projects financed by the Fund should form part of trans-European network guidelines which have been adopted by the Council including those covered by the plans for trans-European networks approved by the Council or proposed by the Commission before the entry into force of the Treaty on European Union; whereas, however, other transport infrastructure projects contributing to the attainment of the objectives of Article 129b of the Treaty may be financed until the Council has adopted the appropriate guidelines;

Whereas Article 130r of the Treaty defines the objectives and principles of the Community in the field of the environment; whereas the Community may contribute, through the Cohesion Fund, to actions designed to achieve those objectives; whereas, in accordance with Article 130s (5) of the Treaty and without prejudice to the principle that the polluter should pay, the Council may decide on financial assistance from the Cohesion Fund where a measure based on paragraph 1 of that Article involves costs deemed disproportionate for the public authorities of a Member State;

Whereas the principles and objectives of sustainable development are established in the Community's programme of policy and action in relation to the environment and sustainable development as set out in the Council Resolution of 1 February 1993⁽¹⁾;

Whereas a suitable balance must be struck between financing for transport infrastructure projects and financing for environmental projects;

Whereas the Commission's Green Paper on the Impact of Transport on the Environment reiterates the need to develop a more environment-friendly transport system which takes into account the sustainable development needs of the Member States;

Whereas any calculation of the cost of transport infrastructure projects must encompass environmental costs;

Whereas, in the light of the undertaking by the Member States concerned not to decrease their investment efforts in the fields of environmental protection and transport infrastructure, the principle of additionality within the meaning of Article 9 of Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the opera-

tions of the European Investment Bank and the other existing financial instruments⁽²⁾ will not apply to the Cohesion Fund;

Whereas, in accordance with Article 198e of the Treaty, the European Investment Bank (EIB) is to facilitate the financing of investments in conjunction with assistance from the other Community financial instruments;

Whereas it is necessary to coordinate action taken in the fields of the environment and of trans-European transport infrastructure networks through the Cohesion Fund, the Structural Funds, the EIB and the other financial instruments in order to enhance the effectiveness of Community assistance;

Whereas with a view, in particular, to helping Member States in the preparation of their projects, the Commission should be in a position to ensure that the necessary technical support is available to them, particularly in order to contribute to the preparation, implementation, monitoring and evaluation of projects;

Whereas, particularly in order to ensure value for money, a thorough appraisal should precede the commitment of Community resources in order to ensure that they yield socio-economic benefits in keeping with the resources deployed;

Whereas assistance from the Cohesion Fund must be consistent with Community policies, including environmental protection, transport, trans-European networks, competition and the award of public contracts; whereas environmental protection includes the assessment of environmental impact;

Whereas there should be provision for an indicative allocation of the global resources available for commitment between the Member States in order to facilitate the preparation of projects;

Whereas provision should be made, in conjunction with Article 104c (6) of the Treaty, for a form of conditionality in the granting of financial assistance;

Whereas it is necessary, given the requirements of economic and social cohesion, to provide a high rate of assistance;

Whereas, in order to facilitate the management of assistance from the Fund, there should be provision for identifying the stages of projects which may be considered technically and financially separate and for grouping the projects together, if necessary;

⁽¹⁾ OJ No C 138, 17. 5. 1993, p. 1.

⁽²⁾ OJ No L 374, 31. 12. 1988, p. 1. Regulation as amended by Regulation (EEC) No 2082/93 (OJ No L 193, 31. 7. 1993, p. 20).

Whereas it should be possible to opt for assistance from the Fund either by annual instalments or for the whole of the project; and whereas, in accordance with the principle laid down by the European Council meeting at Edinburgh on 11 and 12 December 1992, payment instalments following an initial advance should be closely and transparently linked with progress towards the completion of projects;

Whereas the respective powers and responsibilities of the Member States and the Commission concerning financial control over the Fund's operations should be specified;

Whereas, in the interests of the proper management of the Cohesion Fund, provision should be made for effective methods of evaluating, monitoring and checking Community operations, specifying the principles governing the evaluation, defining the nature of and the rules governing the monitoring, and laying down the action to be taken in response to irregularities or failure to comply with one of the conditions laid down when assistance from that Fund was approved;

Whereas adequate information should be provided, *inter alia*, in the form of an annual report;

Whereas provision should be made to give adequate publicity to Community assistance from the Cohesion Fund;

Whereas publication in the *Official Journal of the European Communities* of calls for public tenders concerning projects receiving assistance from the Fund should mention the assistance;

Whereas in order to facilitate the application of this Regulation, the implementing provisions should be defined in Annex II; whereas to ensure the necessary flexibility in their application, the Council, acting by a qualified majority on a proposal from the Commission, should be able, if necessary, in the light of experience gained, to amend those provisions;

Whereas this Regulation should, without interruption, replace Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Definition and objective

1. A Cohesion Fund, hereinafter referred to as 'the Fund', is hereby established.
2. The Fund shall contribute to the strengthening of the economic and social cohesion of the Community and shall operate according to the provisions set out in this Regulation.
3. The Fund may contribute to the financing of:
 - projects, or
 - stages of a project which are technically and financially independent, or
 - groups of projects linked to a visible strategy which form a coherent whole.

Article 2

Scope

1. The Fund shall provide financial contributions to projects, which contribute to achieving the objectives laid down in the Treaty on European Union, in the fields of the environment and trans-European transport infrastructure networks in Member States with a per capita gross national product (GNP), measured in purchasing power parities, of less than 90 % of the Community average which have a programme leading to the fulfilment of the conditions of economic convergence referred to in Article 104c of the Treaty.
2. Until the end of 1999, only the four Member States which currently meet the criterion regarding per capita GNP referred to in paragraph 1 shall be eligible for assistance from the Fund. Those Member States are Greece, Spain, Ireland and Portugal.
3. With regard to the GNP criterion referred to in paragraph 1, the Member States referred to in paragraph 2 shall continue to be eligible for assistance from the Fund provided that, after a mid-term review in 1996, their GNP remains below 90 % of the Community average. Any eligible Member State whose GNP exceeds the 90 % threshold at that time shall lose its entitlement to assistance from the Fund for new projects or, in the case of important projects split into several technically and financially separate stages, for new stages of a project.

⁽¹⁾ OJ No L 79, 1. 4. 1993, p. 74.

*Article 3***Eligible measures**

1. The Fund may provide assistance for the following :

- environmental projects contributing to the achievement of the objectives of Article 130r of the Treaty, including projects resulting from measures adopted pursuant to Article 130s of the Treaty and, in particular, projects in line with the priorities conferred on Community environmental policy by the Fifth Programme of Policy and Action in relation to the Environment and Sustainable Development,
- transport infrastructure projects of common interest, financed by Member States, which are identified within the framework of the guidelines referred to in Article 129c of the Treaty ; however, other transport infrastructure projects contributing to the achievement of the objectives of Article 129b of the Treaty may be financed until appropriate guidelines have been adopted by the Council.

2. Assistance may also be granted for :

- preliminary studies related to eligible projects, including those necessary for their implementation,
- technical support measures, particularly :
 - (a) horizontal measures such as comparative studies to assess the impact of Community assistance ;
 - (b) measures and studies which contribute to the appraisal, monitoring or evaluation, of projects, and to strengthening and ensuring the coordination and consistency of projects, particularly their consistency with other Community policies ;
 - (c) measures and studies helping to make the necessary adjustments to the implementation of projects.

*Article 4***Financial resources**

For the period 1993 to 1999, the total resources available for commitment for the Fund under this Regulation and Regulation (EEC) No 792/93, as set out in the Inter-institutional Agreement of 29 October 1993, shall be ECU 15 150 million at 1992 prices.

The financial perspectives established with regard to the commitment appropriations available for each year of the period under the Regulations referred to in the first paragraph are as follows :

- 1993 : ECU 1 500 million,
- 1994 : ECU 1 750 million,
- 1995 : ECU 2 000 million,
- 1996 : ECU 2 250 million,
- 1997 : ECU 2 500 million,
- 1998 : ECU 2 550 million,
- 1999 : ECU 2 600 million.

*Article 5***Indicative allocation**

An indicative allocation of the total resources of the Fund shall be made on the basis of precise and objective criteria, principally population, per capita GNP and surface area ; it shall also take account of other socio-economic factors such as deficiencies in transport infrastructure.

The indicative allocation of the total resources resulting from the application of those criteria is set out in Annex I.

*Article 6***Conditional assistance**

1. In the event of the Council deciding, in accordance with Article 104c (6) of the Treaty, that an excessive government deficit exists in a Member State, and if that decision is not abrogated in accordance with Article 104c (12) of the Treaty within one year or any other period specified for correcting the deficit in a recommendation under Article 104c (7), no new projects or, in the case of large multi-stage projects, no new stages of a project shall be financed from the Fund for that Member State.

2. Exceptionally, in the case of projects directly affecting more than one Member State, the Council, acting by a qualified majority on a recommendation from the Commission, may decide to defer suspension of financing.

3. Suspension of financing shall not take effect less than two years after the entry into force of the Treaty on European Union.

4. The suspension of financing shall cease when the Council, in accordance with Article 104c (12) of the Treaty, abrogates its decision adopted in accordance with Article 104c (6) of the Treaty.

*Article 7***Rate of assistance**

1. The rate of Community assistance granted by the Fund shall be 80 % to 85 % of public or equivalent expenditure, including expenditure by bodies whose acti-

vities are undertaken within an administrative or legal framework by virtue of which they may be deemed to be equivalent to public bodies.

The actual rate of assistance shall be fixed according to the type of operation to be carried out.

2. Where assistance is granted for a project which generates revenue, the amount of the expenditure on which the calculation of the assistance from the Fund is based shall be established by the Commission, taking account of revenue where it constitutes substantial net revenue for the promoters and in close collaboration with the beneficiary Member State.

'Project which generates revenue' means :

- infrastructures the use of which involves fees borne directly by users,
- productive investments in the environment sector.

3. The beneficiary Member States may submit proposals for preparatory studies and technical support measures.

4. Preliminary studies and technical support measures, including those undertaken at the Commission's initiative, may be financed exceptionally at 100 % of the total cost.

Total expenditure carried out pursuant to this paragraph may not exceed 0,5 % of the total allocation to the Fund.

Article 8

Coordination and compatibility with Community policies

1. Projects financed by the Fund shall be in keeping with the provisions of the Treaties, with the instruments adopted pursuant thereto and with Community policies, including those concerning environmental protection, transport, trans-European networks, competition and the award of public contracts.

2. The Commission shall ensure coordination and consistency between projects undertaken pursuant to this Regulation and measures undertaken with contributions from the Community budget, the European Investment Bank (EIB) and the other financial instruments of the Community.

Article 9

Cumulation and overlapping

1. No item of expenditure may benefit both from the Fund and from the European Agricultural Guidance and Guarantee Fund, the European Social Fund, the European Regional Development Fund or the financial instrument of fisheries guidance.

2. The combined assistance of the Fund and other Community aid for a project shall not exceed 90 % of the total expenditure relating to that project.

Article 10

Approval of projects

1. The projects to be financed by the Fund shall be adopted by the Commission in agreement with the beneficiary Member State.

2. A suitable balance shall be struck between projects in the field of the environment and projects relating to transport infrastructure. This balance shall take account of Article 130s (5) of the Treaty.

3. Applications for assistance for projects under Article 3 (1) shall be submitted by the beneficiary Member State. Projects, including groups of related projects, shall be of a sufficient scale to have a significant impact in the field of environmental protection or in the improvement of trans-European transport infrastructure networks. In any event, the total cost of projects or groups of projects may in principle not be less than ECU 10 million. Projects or groups of projects costing less than this may be approved in duly justified cases.

4. Applications shall contain the following information : the body responsible for implementation, the nature of the investment and a description thereof, its costs and location, including, where applicable, an indication of projects of common interest situated on the same transport axis, the timetable for implementation of the work, a cost-benefit analysis, including the direct and indirect effects on employment, information enabling possible impact on the environment to be assessed, information on public contracts, the financing plan including, where possible, information on the economic viability of the project, and the total financing the Member State is seeking from the Fund and any other Community source.

They shall also contain all relevant information providing the required proof that the projects comply with the Regulation and with the criteria set out in paragraph 5, and particularly that there are medium-term economic and social benefits commensurate with the resources deployed.

5. The following criteria shall be applied to ensure the high quality of projects :

- their medium-term economic and social benefits, which shall be commensurate with the resources deployed ; an assessment shall be made in the light of a cost-benefit analysis,
- the priorities established by the beneficiary Member States,
- the contribution which projects can make to the implementation of Community policies on the environment and trans-European networks,
- the compatibility of projects with Community policies and their consistency with other Community structural measures,
- the establishment of an appropriate balance between the fields of the environment and transport infrastructure.

6. Subject to Article 6 and to the availability of commitment appropriations, the Commission shall decide on the grant of assistance from the Fund provided that the requirements of this Article are fulfilled, as a general rule within three months of receipt of the application. Commission decisions approving projects, stages of projects or groups of related projects shall determine the amount of financial support and lay down a financing plan together with all the provisions and conditions necessary for the implementation of the projects.

7. The key details of the Commission's decisions shall be published in the *Official Journal of the European Communities*.

Article 11

Financial provisions

1. The commitment appropriations entered in the budget shall be granted on the basis of the decisions approving the measures concerned, in accordance with Article 10.

2. Assistance relating to the projects referred to in Article 3 (1) shall as a general rule be committed by annual instalments. However, in appropriate cases, the

Commission may commit the total amount of the assistance granted when it adopts the decision granting the assistance.

3. Expenditure within the meaning of Article 7 (1) shall not be deemed eligible for assistance from the Fund if incurred by the beneficiary Member State before the date on which the Commission receives the relevant application.

4. Payments made after an initial advance must be closely and transparently linked to progress made in the implementation of the projects.

5. Payments shall be made in ecus and shall be subject to the specific provisions set out in Annex II.

Article 12

Financial checks

1. In order to guarantee successful completion of the projects financed by the Fund, Member States shall take the necessary measures :

- to verify on a regular basis that operations financed by the Community have been properly carried out,
- to prevent irregularities and take action against them,
- to recover any amounts lost as a result of irregularity or negligence. Except where the Member State and/or the implementing authority provide proof that they were not responsible for the irregularity or negligence, the Member State shall be liable in the alternative for reimbursement of any sums unduly paid.

2. Member States shall inform the Commission of the measures taken for those purposes and, in particular, shall notify the Commission of the description of the management and control systems established to ensure the efficient implementation of operations. They shall regularly inform the Commission of the progress of administrative and judicial proceedings. In that context, the Member States and the Commission shall take the necessary steps to ensure that the information exchanged remains confidential.

3. Member States shall make available to the Commission any appropriate national control reports on the projects concerned.

4. Without prejudice to checks carried out by Member States in accordance with national laws, regulations and administrative provisions and without prejudice to Article 188a of the Treaty or to any inspection arranged on the basis of Article 209 (c) of the Treaty, the Commission may, through its officials or agents, carry out on-the-spot

checks, including sample checks, in respect of projects financed by the Fund, and may examine the control arrangements and measures established by the national authorities, which shall inform the Commission of measures taken to that end.

5. As soon as this Regulation enters into force, the Commission shall adopt detailed rules for the application of this Article and shall inform the European Parliament thereof.

Article 13

Appraisal, monitoring and evaluation

1. The Member States and the Commission shall ensure that the implementation of projects under this Regulation is effectively monitored and evaluated. Projects must be adjusted on the basis of the results of monitoring and evaluation.

2. In order to ensure the effectiveness of Community assistance, the Commission and the beneficiary Member States shall, in cooperation with the EIB where appropriate, carry out a systematic appraisal and evaluation of projects.

3. On receipt of a request for assistance and before approving a project, the Commission shall carry out a thorough appraisal in order to assess the project's consistency with the criteria laid down in Article 10 (5). The Commission shall invite the EIB to contribute to the assessment of projects as necessary.

4. During the implementation of projects and after their completion, the Commission and the beneficiary Member States shall evaluate the manner in which they have been carried out and the potential and actual impact of their implementation in order to assess whether the original objectives can be, or have been, achieved. This evaluation shall, *inter alia*, address the environmental impact of the projects, in compliance with the existing Community rules.

5. In vetting individual applications for assistance, the Commission shall take into account the findings of appraisals and evaluations made in accordance with this Article.

6. The detailed rules for monitoring and evaluation, as provided for in paragraph 4, shall be laid down in the decisions approving projects.

Article 14

Information and publicity

1. The Commission shall present an annual report on the activities of the Fund, for the purposes of examination

and their opinion, to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

The European Parliament shall deliver an opinion on the report as soon as possible. The Commission shall report on how it has applied the observations contained in the European Parliament's opinion.

The Commission shall ensure that Member States are informed of the activities of the Fund.

2. The Member States responsible for implementing a measure receiving a financial contribution from the Fund shall ensure that adequate publicity is given to the measure with a view to:

- making the general public aware of the role played by the Community in relation to the measure,
- making potential beneficiaries and professional organizations aware of the possibilities afforded by the measure.

Member States shall ensure, in particular, that directly visible display panels are erected showing the percentage of the total cost of a given project which is being financed by the Community, together with the Community logo, and that representatives of the Community institutions are duly involved in the most important public activities connected with the Fund.

They shall inform the Commission of the initiatives taken under this paragraph.

3. As soon as this Regulation enters into force, the Commission shall adopt detailed rules on information and publicity, shall inform the European Parliament thereof and shall publish them in the *Official Journal of the European Communities*.

Article 15

Implementation

The provisions for the implementation of this Regulation are set out in Annex II hereto.

Article 16

Final and transitional provisions

1. The Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 130d of the Treaty, shall re-examine this Regulation before the end of 1999.

2. As soon as it enters into force, this Regulation shall replace Regulation (EEC) No 792/93.

3. This Regulation shall not affect the continuation of measures approved by the Commission on the basis of the provisions of Regulation (EEC) No 792/93 applicable before the entry into force of this Regulation, which shall consequently apply thereafter to those measures.

4. Applications presented within the framework of Regulation (EEC) No 792/93 before the entry into force of this Regulation shall remain valid provided such appli-

cations are supplemented, where necessary, so as to comply with the requirements of this Regulation within not more than two months of the entry into force of this Regulation.

Article 17

Entry into force

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

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

Done at Brussels, 16 May 1994.

For the Council

The President

Th. PANGALOS

ANNEX I

**INDICATIVE ALLOCATION OF THE TOTAL RESOURCES OF THE COHESION FUND
AMONG THE BENEFICIARY MEMBER STATES**

— Spain :	52 % to 58 % of the total,
— Greece :	16 % to 20 % of the total,
— Portugal :	16 % to 20 % of the total,
— Ireland :	7 % to 10 % of the total.

*ANNEX II***IMPLEMENTING PROVISIONS***Article A***Designation of stages or groups of projects**

1. The Commission may, in agreement with the beneficiary Member State, group projects together and designate technically and financially separate stages of a project for the purpose of granting assistance.
2. A stage may also cover preliminary, feasibility and technical studies needed for carrying out a project.

*Article B***Ex-ante evaluation**

1. The Commission shall examine applications for assistance to verify in particular that the administrative and financial mechanisms are adequate for the effective implementation of the project.
2. Pursuant to Article 13 (3), the Commission shall appraise projects to determine their anticipated impact in terms of the objectives of the Fund, quantified using appropriate indicators. The beneficiary Member States shall provide all necessary information, as set out in Article 10 (4), including the results of feasibility studies and *ex-ante* appraisals, to make this appraisal as effective as possible.

*Article C***Commitments**

1. Budgetary commitments shall be made on the basis of the Commission decisions approving the measures concerned (project, stage of project, group of projects, study or technical support measure). Commitments shall be valid for a period determined by the nature of the measure and the specific conditions for its implementation.
2. Budgetary commitments in respect of assistance granted to projects, stages of projects or groups of projects shall be carried out in one of two ways:
 - (a) commitments in respect of the projects referred to in Article 3 (1) to be carried out over a period of two or more years shall, as a general rule and subject to the provisions of subparagraph (b), be effected in annual instalments.

The commitments in respect of the first annual instalment shall be made when the decision granting Community assistance is adopted by the Commission. Commitments in respect of subsequent annual instalments shall be based on the initial or revised financing plan for the project and on the progress made in its implementation;
 - (b) for projects to be carried out over a period of less than two years or where Community assistance is less than ECU 40 million, the total amount of assistance may be committed when the Commission adopts the decision to grant Community assistance.
3. In the case of the studies and technical support measures referred to in Article 3 (2), the assistance shall be committed when the Commission approves the measure concerned.
4. The arrangements for commitments shall be specified in the Commission decisions approving the measures concerned.

*Article D***Payments**

1. Payments of financial assistance shall be made in accordance with the corresponding budget commitments, to the authority or body designated for the purpose in the application submitted by the beneficiary Member State concerned. Payments may take the form either of advances or in intermediate payments or payments of balances in respect of expenditure actually incurred.
2. Where Community assistance is committed in accordance with Article C (2) (a), payments shall be made as follows:

- (a) an advance of up to 50 % of the amount of the first annual instalment committed shall be paid when the decision granting Community assistance is adopted ;
- (b) intermediate payments may be paid provided that the project is progressing satisfactorily towards completion and that at least two-thirds of the expenditure relating to the previous payment have been made.

Subject to (c), each such payment may not exceed 50 % of the amount of each annual instalment committed ;

- (c) the total amount of the payments made under (a) and (b) for all the instalments may not exceed 80 % of the total assistance granted. This percentage may be increased to 90 % for important projects and in justified cases ;
- (d) the balance of Community assistance shall be paid provided that :
 - the project, stage of the project, or group of projects, has been carried out according to its objectives ;
 - the designated authority or body referred to in paragraph 1 submits an application for payment to the Commission within six months of the physical completion of the project, stage of project or group of projects ;
 - the final report referred to in Article F (4) is submitted to the Commission ;
 - the Member State certifies to the Commission that the information given in the application for payment and in the report is correct.

3. Where the commitment is made in accordance with Article C (2) (b), payment shall be made as follows :

- (a) the advance paid following the decision may be up to 50 % of the assistance relating to planned expenditure in the first year as shown in the financing plan approved by the Commission ;
- (b) further intermediate payments may be made provided that the project is progressing satisfactorily towards completion and that at least two-thirds of the expenditure relating to the previous payment, and all expenditure relating to earlier payments, have been made.

Subject to subparagraph (c), each of those payments may amount to up to 50 % of the assistance relating to expenditure planned for the year in question, as shown in the initial or revised financing plan approved by the Commission ;

- (c) the total amount of the payments referred to under subparagraphs (a) and (b) may not exceed 80 % of the total assistance granted ;
- (d) the balance of Community assistance shall be paid provided that :
 - the project, stage of the project, or group of projects, has been carried out according to its objectives ;
 - the designated authority or body referred to in paragraph 1 submits an application for payment to the Commission within six months of completion of the project, stage of project or group of projects ;
 - the final report referred to in Article F (4) is submitted to the Commission ;
 - the Member State certifies to the Commission that the information given in the application for payment and in the report is correct.

4. Member States shall designate the authorities empowered to issue the certificates referred to in paragraphs 2 (d) and 3 (d).

5. Payment shall be made to the authority or body designated by the Member State, as a general rule not later than two months after receipt of an admissible application for payment.

6. In the case of the studies and other measures referred to in Article 3 (2), the Commission shall determine the appropriate payment procedures.

Article E

Use of the ecu

1. Applications for assistance, together with the relevant financing plan, shall be submitted to the Commission in ecus or in national currency.
2. The amounts of assistance and the financing plans approved by the Commission shall be expressed in ecus.
3. Declarations of expenditure in support of the corresponding payment applications shall be expressed in ecus or in national currency.
4. Payments of financial assistance by the Commission shall be made in ecus to the authority designated by the Member State to receive such payments.

*Article F***Monitoring**

1. The Commission and the Member State shall ensure effective monitoring of implementation of Community projects part-financed by the Fund. Monitoring shall be carried out by way of jointly agreed reporting procedures, sample checks and the establishment of *ad hoc* committees.
2. Monitoring shall be carried out by reference to physical and financial indicators. The indicators shall relate to the specific character of the project and its objectives. They shall be arranged in such a way as to show:
 - the stage reached in the receipt in relation to the plan and objectives originally laid down;
 - the progress achieved on the management side and any related problems.
3. Monitoring committees shall be set up by arrangement between the Member State concerned and the Commission.

The authorities or bodies designated by the Member State, the Commission and, where appropriate, the EIB shall be represented on the committees.

Where regional and local authorities are competent for the execution of a project and, where appropriate, where they are directly concerned by a project they shall also be represented on such committees.
4. For each project, the authority or body designated for the purpose by the Member State shall submit progress reports to the Commission within three months of the end of each full year of implementation. A final report shall be submitted to the Commission within six months of completion of the project or stage of project.
5. On the basis of the results of monitoring, and taking account of the comments of the monitoring committee, the Commission shall adjust the amounts and conditions for granting assistance as initially approved, as well as the financing plan envisaged, if necessary on a proposal by the Member States.
6. For the greater effectiveness of the Fund, the Commission shall ensure that when the Fund is administered particular attention is paid to transparency of management.
7. The monitoring arrangements shall be laid down in the Commission decisions approving the projects.

*Article G***Checks**

1. Before carrying out an on-the-spot check, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. On-the-spot checks by the Commission without notice shall be subject to agreements reached in accordance with the Financial Regulation. Officials or agents of the Member State concerned may take part in checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of payment applications. Officials or agents of the Commission may take part in such checks, and must do so if the Member State concerned so requests.

The Commission shall ensure that any checks that it carries out are performed in a coordinated manner so as to avoid repeating checks in respect of the same subject matter during the same period. The Member State concerned and the Commission shall immediately exchange any relevant information concerning the results of the checks carried out.
2. The responsible body and authorities shall keep available for the Commission all the supporting documents regarding expenditure on any project for a period of three years following the last payment in respect of a project.

*Article H***Reduction, suspension and cancellation of assistance**

1. If the implementation of a measure appears not to justify either a part, or the whole, of the assistance allocated, the Commission shall conduct an appropriate examination of the case, in particular requesting the Member State or authorities or bodies designated by it to implement the measure to submit their comments within a specified period of time.

2. Following the examination referred to in paragraph 1, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals an irregularity or a failure to comply with one of the conditions in the decision to grant assistance, and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission's approval has not been sought.

Any undue cumulation shall give rise to the recovery of sums unduly paid.

3. Any sum to be recovered for want of due entitlement shall be repaid to the Commission. Interest on account of late repayment shall be charged in accordance with the rules to be adopted by the Commission.

Article I

Public contracts

In the context of the application of Community rules on the award of public contracts, notices sent for publication in the *Official Journal of the European Communities* shall specify those projects for which Community assistance has been applied for or granted.

Article J

Information

The information to be given in the annual report provided for in Article 14 shall be as set out in the Annex to this Annex.

The Commission shall be responsible for organizing an information meeting with the Member States every six months.

Article K

Review

If necessary, in the light of experience gained, the Council may, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, amend the provisions of this Annex.

Annex to ANNEX II

The annual report shall provide information on the following :

1. financial assistance committed and paid by the Fund, with an annual breakdown by Member State and by type of project (environment or transport);
2. the economic and social impact of the Fund in the Member States and on economic and social cohesion in the Union ;
3. summary of information on the programmes implemented in the beneficiary Member States to fulfil the conditions of economic convergence referred to in Article 104c of the Treaty and on the application of Article 6 of the Regulation ;
4. information on the conclusions drawn by the Commission, with regard to the suspension of financing, from decisions taken by the Commission, such as those mentioned in Article 6 (1) and (2);
5. the contribution which the Fund has made to the efforts of the beneficiary Member States to implement Community environment policy and to strengthen trans-European transport infrastructure networks ; the balance between projects in the field of the environment and projects relating to transport infrastructure ;
6. assessment of the compatibility of operations of the Fund with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts ;
7. the measures taken to ensure coordination and consistency between projects financed by the Fund and measures financed with contributions from the Community budget, the European Investment Bank and the other financial instruments of the Community ;
8. the investment efforts of the beneficiary Member States in the fields of environmental protection and transport infrastructure ;
9. the preparatory studies and technical support measures financed, including a specification of the types of such studies and measures ;
10. the results of appraisal, monitoring and evaluation of projects, including information on any adjustment of projects to accord with the results of appraisal, monitoring and evaluation ;
11. the contribution of the EIB to the evaluation of projects ;
12. summary of information on the results of checks carried out, irregularities found and administrative and judicial proceedings in progress.

Part Three:
Contact addresses

**Contacts where the addresses of the other relevant authorities
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