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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 861/2006

of 22 May 2006

**establishing Community financial measures for the implementation of the common fisheries policy
and in the area of the Law of the Sea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽²⁾ provides that the common fisheries policy (CFP) is to ensure the exploitation of living aquatic resources in a manner that provides sustainable economic, environmental and social conditions.

(2) In implementing the CFP pursuant to Regulation (EC) No 2371/2002 and its implementing regulations, a crucial objective is to make Community financial intervention in the sector more effective. Greater complementarity and more streamlined, uniform and coordinated procedures, both within the Community and in relations with third countries and international organisations, are essential to ensuring the consistency and relevance of such financial intervention.

(3) It is necessary to take account of the objectives previously established in the 2002 CFP reform, which have been supplemented by sectoral legal and policy instruments.

(4) In addition it is necessary to adapt Community legislation to those objectives and to the orientations of the financial framework for the period 2007 to 2013, while at the same time ensuring compliance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾ and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 ⁽⁴⁾, and with the requirements of simplification and better regulation.

(5) Community expenditure may take, *inter alia*, the form of a financing decision, a Community grant agreement, a public procurement contract, Memoranda of Understanding and administrative arrangements in compliance with the procedures laid down in Regulation (EC, Euratom) No 1605/2002.

(6) In addition, account should be taken of the conclusions of the Agriculture and Fisheries Council of 19 July 2004 on Fisheries Partnership Agreements.

(7) It is necessary to clearly define the objectives, areas of action and expected results for Community funding.

(8) It is necessary to provide for rules governing the eligibility of expenditure, the level of the Community financial contribution and the terms on which it should be made available.

(9) It is of common interest that Member States are equipped in such a way that controls are carried out to a high standard. In order to ensure that Member States accomplish their obligation under the CFP rules, the Community should support the Member States in their investments in the control area.

⁽¹⁾ Opinion of 15 December 2005 (not yet published in the Official Journal).

⁽²⁾ OJ L 358 31.12.2002, p. 59. Regulation as last amended by Regulation (EC) No 1242/2004 (OJ L 236, 7.7.2004, p. 1).

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁴⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1261/2005 (OJ L 201, 2.8.2005, p. 3).

- (10) It is necessary to ensure the availability of the financial means needed for the Commission to monitor the implementation of the CFP.
- (11) The Community should also make a contribution to the budget of the Community Fisheries Control Agency for the implementation of the annual work plan of the Agency, including for equipment and running costs and for expenditure necessary to carry out its duties.
- (12) Fisheries management depends on the availability of data concerning the biological state of fish stocks and the activity of fishing fleets. The collection of data carried out by the Member States which is needed to conduct the CFP, and additional studies and pilot projects carried out by the Commission, should be supported by Community financial contributions.
- (13) Financial resources should be made available to obtain scientific advice on a regular basis from the international scientific organisations responsible for coordinating fisheries investigations in waters where Community fleets operate.
- (14) The reform of the CFP has resulted in new demands for scientific advice, in particular concerning the adoption of an ecosystem approach and the management of mixed fisheries. Financial compensation should be made available to allow the recognised experts in those fields or the institutions for which they work to meet those additional demands.
- (15) With a view to promoting dialogue and communication with the fisheries sector and other interest groups, it is important to ensure that the industry and other stakeholders are informed at a very early stage of the initiatives planned and that the objectives of the CFP and measures relating to it are clearly presented and explained.
- (16) In view of the tasks of the Advisory Committee on Fisheries and Aquaculture (ACFA), which was renewed under Commission Decision 1999/478/EC⁽⁵⁾, the European professional organisations represented in ACFA should be given financial support to prepare the meetings of ACFA in order to improve the coordination of national organisations at European level and ensure greater industry cohesion on topics of Community interest.
- (17) In order to improve governance within the CFP and in order to ensure the effective establishment of Regional Advisory Councils (RACs) pursuant to Council Decision 2004/585/EC⁽⁶⁾, it is essential for RACs to be supported financially during their start-up phase and for a contribution to be made to their interpreting and translation costs.
- (18) In order to ensure coordination of the work of the RACs with that of ACFA, it is necessary to facilitate the participation of a representative of ACFA in the meetings of the RACs.
- (19) To achieve the objectives of the CFP, the Community plays an active role in the work of international organisations and concludes fisheries agreements, including partnership agreements in the fisheries sector.
- (20) It is essential for the Community to contribute to the funding of measures designed to ensure long-term conservation and sustainable exploitation of fisheries resources on the high seas and in third country waters.
- (21) Expenditure associated with the preparation, follow-up, monitoring, audit and evaluation activities necessary for the implementation and the assessment of the measures within the scope of this Regulation and the achievement of its objectives should be covered under technical assistance financial measures.
- (22) It is necessary to establish procedures in respect of the contents of Community and national programmes for the different measures under the relevant areas of the CFP.
- (23) It is appropriate to establish the rates of the financial contribution of the Community to the expenditure of the Member States.
- (24) A financial framework should be established for the period 2007 to 2013 in conformity with the Communication from the Commission to the Council and the European Parliament entitled 'Building our Common Future — Policy Challenges and Budgetary Means of the Enlarged Union 2007 to 2013'.

⁽⁵⁾ OJ L 187, 20.7.1999, p. 70. Decision as amended by Decision 2004/864/EC (OJ L 370, 17.12.2004, p. 91).

⁽⁶⁾ OJ L 256, 3.8.2004, p. 17. Decision as amended by Commission Decision 2006/191/EC 2006 (OJ L 66, 8.3.2006, p. 50).

- (25) In relation to the actions financed under this Regulation, it is necessary to ensure the protection of Community financial interests by the proper application of the legislation pertaining to the protection of those interests, and to ensure that appropriate checks are carried out by Member States and by the Commission.
- (26) To ensure the effectiveness of Community financing, actions funded under this Regulation should be regularly evaluated.
- (27) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾.
- (28) Council Regulation (EC) No 657/2000 of 27 March 2000 on closer dialogue with the fishing sector and groups affected by the common fisheries policy ⁽⁸⁾, Council Decision 2000/439/EC of 29 June 2000 on a financial contribution from the Community towards the expenditure incurred by Member States in collecting data, and for financing studies and pilot projects for carrying out the common fisheries policy ⁽⁹⁾ and Council Decision 2004/465/EC of 29 April 2004 on a Community financial contribution towards Member States' fisheries control programmes ⁽¹⁰⁾ should be repealed with effect from 1 January 2007,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT-MATTER AND SCOPE

Article 1

Subject-matter

This Regulation establishes the framework for Community financial measures for the implementation of the common fisheries policy (the CFP) and the Law of the Sea (hereinafter referred to as Community financial measures).

Article 2

Scope

This Regulation shall apply to Community financial measures in the following areas:

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁸⁾ OJ L 80, 31.3.2000, p. 7.

⁽⁹⁾ OJ L 176, 15.7.2000, p. 42. Decision as amended by Decision 2005/703/EC (OJ L 267, 12.10.2005, p. 26).

⁽¹⁰⁾ OJ L 157, 30.4.2004, p. 114. Corrected version in OJ L 195, 2.6.2004, p. 36. Decision as last amended by Decision 2006/2/EC (OJ L 2, 5.1.2006, p. 4).

- (a) control and enforcement of CFP rules;
- (b) conservation measures, data collection and improvement of scientific advice concerning the sustainable management of fisheries resources within the scope of the CFP;
- (c) governance of the CFP;
- (d) international relations in the area of the CFP and the Law of the Sea.

CHAPTER II

OBJECTIVES

Article 3

General objectives

The Community financial measures referred to in Chapter III shall specifically contribute towards the following general objectives:

- (a) improving the administrative capacity and the means for control and enforcement of CFP rules;
- (b) improving the collection of data necessary for the CFP;
- (c) improving the quality of scientific advice for the purposes of the CFP;
- (d) improving the technical assistance supporting the management of the Community fishing fleet for the purposes of the CFP;
- (e) improving the involvement of the fisheries sector and other interest groups in the CFP and promoting dialogue and communication between them and the Commission;
- (f) implementing measures relating to Fisheries Partnership Agreements and other bilateral or multilateral agreements for the purposes of the CFP, and in particular towards ensuring the sustainability of fisheries resources in third country waters and on the high seas;
- (g) implementing measures relating to the Law of the Sea.

*Article 4***Specific objectives in the area of control and enforcement**

Community financial measures referred to in Article 8 shall contribute to the objective of improving the control of fishing activities in order to ensure effective implementation of the CFP within and outside Community waters by financing the following actions:

- (a) actions taken by Member States to enhance capacity or reduce identified weaknesses in their fisheries control activities;
- (b) evaluation and control by Commission services of the application of the rules of the CFP by the Member States;
- (c) coordinating control measures, in particular through plans for the joint deployment of national inspection and surveillance units by way of the Community Fisheries Control Agency (CFCA).

*Article 5***Specific objectives in the area of data collection and scientific advice**

Community financial measures referred to in Articles 9, 10 and 11 shall contribute to the objective of improving the collection and management of the data and scientific advice required to assess the state of the resources, the level of fishing and the impact that fisheries have on the resources and the marine ecosystem and the performance of the fishing industry, within and outside Community waters, by providing financial support to the Member States to establish multi-annual aggregated and science based datasets which incorporate biological, technical, environmental and economic information.

*Article 6***Specific objectives in the area of governance**

Community financial measures referred to in Article 12 shall contribute to the objective of involving stakeholders at all stages of the CFP, from conception to implementation, and of informing them about the objectives of, and measures relating to, the CFP, including, where appropriate, their social economic impact.

*Article 7***Specific objectives in the area of international relations**

1. In the area of the negotiation and conclusion of fisheries agreements, including fisheries partnership agreements

Community financial measures referred to in Article 13 shall contribute to the following objectives:

- (a) safeguarding employment in the regions of the Community dependent on fishing;
- (b) securing the continued existence and competitiveness of the Community's fisheries sector;
- (c) developing, through partnership, the fisheries resource management and control capacities of third countries to ensure sustainable fishing and promoting the economic development of the fisheries sector in those countries by improving the scientific and technical evaluation of the fisheries concerned, monitoring and control of fishing activities, health conditions and the business environment in the sector;
- (d) ensuring adequate supply for the Community market.

2. In the area of the Community's involvement in regional and international organisations, Community financial measures referred to in Article 13 shall contribute to the conservation and sustainable exploitation of fishery resources at international level by adopting appropriate management measures for these resources.

CHAPTER III

COMMUNITY FINANCIAL MEASURES

*Article 8***Measures in the area of control and enforcement**

In the area of control and enforcement of CFP rules, the following expenditure shall be eligible for Community financial measures:

- (a) expenditure incurred by Member States in implementing the monitoring and control systems applicable to the CFP for:
 - (i) investments relating to control activities carried out by administrative bodies or by the private sector including implementation of new control technologies and the purchase and modernisation of control means;
 - (ii) training and exchange programmes of civil servants responsible for monitoring, control and surveillance tasks in the fisheries area;
 - (iii) implementation of pilot inspection and observer schemes;

- (iv) cost/benefit analysis as well as assessment of audits performed and expenditure incurred by competent authorities in carrying out monitoring, control and surveillance;
 - (v) initiatives, including seminars and media tools, aimed at enhancing awareness both among fishermen and other players such as inspectors, public prosecutors and judges, and among the general public of the need to fight irresponsible and illegal fishing and on the implementation of the CFP rules;
- (b) expenditure relating to administrative arrangements with the Joint Research Centre, or any other Community consultative body, to analyse the implementation of new technologies;
- (c) all operational expenditure related to inspection, by Commission inspectors, of the implementation of the CFP by the Member States, and in particular inspection missions, safety equipment and training of inspectors, meetings and the charter or purchase by the Commission of inspection means;
- (d) contribution to the budget of the Community Fisheries Control Agency (CFCA) to cover staff, administrative and operating expenditure relating to the annual work plan of CFCA, including communication costs and expenditure linked to space technology.
- specify procedures that will produce aggregated data,
 - ensure that the data used to produce aggregated data remains available for any recalculations, whenever needed;
 - (iii) estimating the total volume of catches per stock and vessel group, including discards where appropriate and, where appropriate, classifying such catches by geographical area and time period;
 - (iv) estimating the abundance and distribution of stocks. Such estimates may be based on commercial fisheries data as well as data collected using scientific research at sea;
 - (v) evaluating the impact of fishing activities on the environment;
 - (vi) evaluating the economic and social situation of the catching sector;
 - (vii) allowing the monitoring of the prices associated with the various landings and reflecting all landings at ports inside and outside the Community, as well as imports;
 - (viii) evaluating the economic and social situation of the processing and aquaculture industry on the basis of studies and samples sufficiently large to safeguard the reliability of the estimate.

Article 9

Measures in the area of basic data collection

1. In the area of basic data collection, Community financial measures shall apply to the expenditure incurred by the Member States for the collection and management of the basic fisheries data for the purposes of:

- (i) evaluating the activities of the various fishing fleets and changes in the fishing power;
- (ii) preparing summaries using the data collected under the other Community legislation concerning the CFP, and collecting additional information to:

- establish, based on sampling where necessary, data collection programmes additional to any such obligations under the other Community legislation or for spheres of activity not covered by any such obligations,

2. The basic data defined in paragraph 1(viii) shall include such as the following:

- (a) As regards fishing fleets:
 - (i) income from sales and other revenue;
 - (ii) production costs;
 - (iii) data enabling the jobs at sea to be counted and classified.
- (b) As regards the fish processing industry:
 - (i) production expressed in volume and value terms for product categories to be determined in accordance with the procedure referred to in Article 30(2);

- (ii) the number of enterprises and the number of jobs;
- (iii) changes in production costs and their composition.

Article 10

Measures in the area of additional data collection

1. In the area of additional data collection, the Commission may carry out studies and pilot projects. The spheres of activity which may be eligible for Community financial measures shall include:

- (a) methodological studies and projects aimed at optimising and standardising methods of collecting data defined in Article 9;
- (b) exploratory data collection projects in particular in the areas of aquaculture, the relationship of fisheries and aquaculture with the environment and the capacity of fishing and aquaculture industries to create jobs;
- (c) economic and bio-economic analyses and simulations connected with decisions planned under the CFP, including recovery and management plans and the evaluation of the impact of the CFP;
- (d) selectivity of fisheries including the selectivity linked to the design of fishing gears and fisheries techniques and examination of the relationships between catch capacity, fishing effort and mortality in each fishery;
- (e) improving the enforcement of the CFP, particularly in terms of cost-effectiveness;
- (f) evaluating and managing the links between fishing activities and aquaculture and aquatic ecosystems.

2. The financing of all studies and pilot projects carried out pursuant to paragraph 1 may not exceed 15 % of the annual appropriations authorised for the actions financed under Article 9 and this Article.

Article 11

Measures in the area of scientific advice

In the area of scientific advice, the following expenditure shall be eligible for Community financial measures:

- (a) expenditure for partnership contracts with national research institutions for the provision of scientific advice;

(b) expenditure relating to administrative arrangements with the Joint Research Centre, or any other Community consultative body, to provide the secretariat for the Scientific, Technical and Economic Committee for Fisheries (STECF), to conduct the pre-analysis of the data and to prepare the data to evaluate the situation of the fisheries resources;

(c) indemnities paid to the members of the STECF and/or the experts invited by the STECF for their participation and work performed during the working groups and plenary sessions;

(d) indemnities paid to independent experts providing the Commission with scientific advice or providing training to administrators or stakeholders in the interpretation of the scientific advice;

(e) contributions to international bodies in charge of stock assessments.

Article 12

Measures in the area of governance

In the area of governance, the following expenditure shall be eligible for Community financial measures:

(a) travelling and accommodation costs of members of the European trade organisations required to travel in order to prepare meetings of the Advisory Committee on Fisheries and Aquaculture (ACFA);

(b) the cost of the participation of the representatives designated by the ACFA to represent it at meetings of the Regional Advisory Councils (RACs);

(c) operating costs during the start-up phase (five years) and translation and interpreting costs of the RACs as provided for in Decision 2004/585/EC;

(d) costs of explaining the objectives and measures of the CFP, and in particular Commission proposals, and of disseminating relevant information in this field to the fishing industry and other groups concerned at the initiative of the Commission, including the following actions:

- (i) producing and disseminating documentary material tailored to the specific needs of the groups concerned (written, audiovisual and electronic material);

- (ii) providing very wide access to data and explanatory material concerning in particular Commission proposals through the development of the DG Fisheries Internet website and producing a regular publication, as well as organising information and training seminars for opinion formers.

Article 13

Measures in the area of international relations

1. In the area of international relations, the following expenditure shall be eligible for Community financial measures:

- (a) expenditure arising from the fisheries agreements and fisheries partnership agreements which the Community has negotiated or intends to renew or negotiate with third countries;
- (b) expenditure arising from the Community's compulsory contributions to the budgets of international organisations;
- (c) expenditure incurred in Community membership and voluntary funding provided to the United Nations organisations as well as expenditure related to the Community membership and voluntary funding provided to any international organisation active in the field of the Law of the Sea;
- (d) voluntary financial contributions to preparations for new international organisations or international treaties which are of interest to the Community;
- (e) voluntary financial contributions to scientific work or programmes carried out by international organisations which are of special interest to the Community;
- (f) financial contributions to activities (working, informal or extraordinary meetings of the contracting parties) which uphold the interests of the Community in international organisations and strengthen cooperation with its partners in these organisations. In this connection, the costs of participation by representatives of third countries in negotiations and meetings within international forums and organisations shall be borne when their presence becomes necessary for Community interests.

2. Measures financed under paragraph 1(a) and (b) shall be implemented in particular on the basis of regulations and decisions relating to the conclusion of fisheries agreements

and/or protocols between the Community and third countries, and regulations and decisions relating to the signature by the Community of agreements on international fisheries organisations.

Article 14

Technical assistance

Community financial measures may cover expenditure associated with the preparation, follow-up, monitoring, audit and evaluation activities necessary for the implementation and the assessment of the measures within the scope of this Regulation and the achievement of its objectives, e.g. studies, meetings, experts, information, awareness-raising, training and publication activities, expenditure associated with information technology including computer networks for the exchange of information, expenditure for temporary staff, and any other administrative or technical assistance expenditure that the Commission may incur.

CHAPTER IV

RATES OF CO-FINANCING

Article 15

Rates of co-financing in the area of monitoring and control systems

As regards Community financial measures referred to in Article 8(a), the rates of co-financing shall not exceed 50 % of eligible expenditure. However, for the actions referred to in Article 8(a)(i), with the exception of the purchase of vessels and aircraft, (iii) and (v), the Commission may decide a rate in excess of 50 % of the eligible expenditure.

Article 16

Rates of co-financing in the area of basic data collection

As regards Community financial measures referred to in Article 9, the rate of co-financing shall not exceed 50 % of the cost of the eligible public expenditure incurred in carrying out a programme as provided for in Article 23(1).

Article 17

Rates of co-financing in the area of additional data collection

As regards Community financial measures referred to in Article 10, the rate of co-financing shall not exceed 50 % of the eligible costs in the case of measures carried out following a call for proposals. Universities and public research bodies which, under the law of the country to which they are subject, are required to defray marginal costs, may submit proposals in respect of up to 100 % of the marginal costs incurred in carrying out a project.

*Article 18***Rates of financing of travelling and accommodation costs of ACFA members**

1. As regards Community financial measures referred to in Article 12(a) and (b), the rate of financing shall be determined in accordance with paragraphs 2 and 3 of the present Article.

2. Drawing rights will be allocated, under a financing agreement with the Commission, to each trade organisation which is a member of the ACFA plenary, in proportion to entitlements within the plenary committee of the ACFA and depending on the financial resources available.

3. Those drawing rights and the average cost of a journey by a member of a trade organisation shall determine the number of journeys for which each organisation may be financially responsible for the purpose of preparing meetings. Some 20 % of the amount of the drawing right shall be retained at a flat-rate by each organisation to cover its organisational and administrative costs strictly linked with the organisation of the preparatory meetings.

CHAPTER V

FINANCING PROCEDURES

SECTION 1

Procedures in the area of monitoring and control systems*Article 19***Introductory provision**

The Community financial contribution to the national programmes adopted by the Member States when implementing the monitoring and control systems applicable to the CFP shall be provided in accordance with the procedures set out in this Section.

*Article 20***Programming**

1. Applications by Member States for Community financial measures shall be submitted to the Commission by 31 January of each year.

Such applications shall be accompanied by an annual fisheries control programme containing the following information:

(a) the objectives of the annual fisheries control programme;

(b) the human resources available;

(c) the financial resources available;

(d) the number of vessels and aircraft available;

(e) a list of projects for which a financial contribution is sought;

(f) the overall expenditure planned for carrying out the projects;

(g) a schedule for completion of each project listed in the annual fisheries control programme;

(h) a list of indicators that will be used to assess the efficacy of the programme.

2. For each project the fisheries control programme shall specify one of the actions referred to in Article 8(a) and the aim, description, owner, location, estimated cost, administrative procedure to be followed and the timetable for its achievement.

3. As regards vessels and aircrafts, the fisheries control programme shall also specify:

(a) to what extent they will be used by the competent authorities for control purposes as a percentage of their use over a year's total activity;

(b) how many hours or days over a year they are likely to be used for fishery control purposes;

(c) in the case of modernisation, their life expectancy.

*Article 21***Commission decision**

1. On the basis of the fisheries control programmes submitted by the Member States, decisions on the Community financial contribution to the national programmes shall be taken each year, in accordance with the procedure referred to in Article 30(2).

2. The decisions referred to in paragraph 1 shall give priority to the actions which are most appropriate in order to improve efficiency in monitoring, control and surveillance activity, taking also into account the performance of Member States in implementing programmes already approved.

3. The decisions referred to in paragraph 1 shall fix:
- (a) the global amount of the financial contribution to be granted to each Member State for the actions referred to in Article 8(a);
 - (b) the rate of the financial contribution;
 - (c) any condition applying to the financial contribution arising from Community rules.

SECTION 2

Procedures in the area of data collection

Article 22

Introductory provision

The Community financial contribution to the expenditure incurred by the Member States for the collection and management of the basic fisheries data referred to in Article 9 shall be provided in accordance with the procedures set out in this Section.

Article 23

Programming

1. A Community programme shall be defined in accordance with the procedure referred to in Article 30(2), covering the essential information needed for scientific evaluations.
2. Each Member State shall draw up a national programme of collection and management of data. The programme shall describe both the collection of detailed data and the processing needed to produce aggregated data in accordance with the objectives set out in Article 5.
3. Each Member State shall include in its national programme the elements relating to it as foreseen under the Community programme drawn-up under paragraph 1.
4. Member States may apply to the Community for financial assistance for those parts of their national programmes that correspond to the elements of the Community programme with which they are concerned.

Article 24

Commission decision

1. On the basis of the programmes submitted by the Member States, decisions on the Community financial contribution to the national programmes shall be taken each year, in accordance with the procedure referred to in Article 30(2).
2. The decisions referred to in paragraph 1 shall give priority to the actions which are most appropriate in order to improve the collection of data necessary for the CFP.

3. The decisions referred to in paragraph 1 shall fix:
- (a) the global amount of the financial contribution to be granted to each Member State for the actions referred to in Article 9;
 - (b) the rate of the financial contribution;
 - (c) any condition applying to the financial contribution arising from Community rules.

CHAPTER VI

ALLOCATION OF FUNDS

Article 25

Budgetary resources

Annual appropriations shall be authorised by the budgetary authority within the limit of the financial framework.

Article 26

Accumulation of Community support

Actions financed under this Regulation shall not receive assistance from other Community financial instruments. The beneficiaries of this Regulation shall provide the Commission with information about any other funding received and of ongoing applications for funding.

CHAPTER VII

CONTROL AND EVALUATION

Article 27

Protection of Community financial interests

1. The Commission shall ensure that, when actions financed under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of any amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽¹¹⁾, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽¹²⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽¹³⁾.

⁽¹¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽¹²⁾ OJ L 292, 15.11.1996, p. 2.

⁽¹³⁾ OJ L 136, 31.5.1999, p. 1.

2. For the Community actions financed under this Regulation, Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96 shall apply to any infringement of a provision of Community law, including infringements of a contractual obligation under the programme, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, on account of an unjustified item of expenditure.

3. The Commission shall reduce, suspend or recover the amount of financial assistance granted for an action if it finds irregularities, including non-compliance with the provisions of this Regulation or the individual decision or the contract or agreement granting the financial support in question, or if it transpires that, without Commission approval having been sought, the action has been subjected to change which conflicts with its nature or with its implementing conditions.

Article 28

Audits and financial corrections

1. Without prejudice to audits carried out by the Member States in accordance with national laws, regulations and administrative provisions, officials of the Commission and of the Court of Auditors, or their representatives, may carry out on-the-spot audits on actions financed by this Regulation at any time with a minimum of ten working days' notice, except in urgent cases, for a period up to three years after the final payment made by the Commission.

Officials of the Commission and of the Court of Auditors, or their representatives, duly empowered to carry out on-the-spot audits, shall have access to the books and all other documents, including documents and metadata drawn-up or received and recorded on an electronic format relating to expenditure financed by this Regulation.

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

If any Community financial support granted under this Regulation is subsequently allocated to a third party as a final beneficiary, the initial beneficiary, being the recipient of the Community financial support, shall provide the Commission

with all relevant information regarding the identity of that final beneficiary.

For this purpose, all related documents shall be kept available by the beneficiaries for a period up to three years after the final payment.

The Commission may also require the Member State concerned to carry out on-the-spot audits on actions financed under Articles 8 and 9. Officials of the Commission and of the Court Auditors, or their representatives, may take part in such audits.

2. If the Commission considers that Community funds have not been used in accordance with the conditions laid down in this Regulation or in any other applicable Community act, it shall notify the beneficiaries, including any final beneficiaries within the meaning of paragraph 1, who shall have one month from the date of such notification to send their observations to the Commission.

If the beneficiaries do not reply within that period or if their observations do not lead the Commission to modify its opinion, the Commission shall reduce or cancel the financial contribution granted or suspend payments.

Any amount unduly paid shall be repaid to the Commission. Interest shall be added to any sums not repaid in due time under the conditions laid down in Regulation (EC, Euratom) No 1605/2002.

3. The Commission shall ensure that suitable arrangements exist for the control and audit of the actions financed pursuant to Articles 53(7) and 165 of Regulation (EC, Euratom) No 1605/2002.

4. Under the principle of national sovereignty, only by agreement with the third country may the Commission carry out, or have carried out, financial audits of funds paid to third countries for measures financed under Article 13(a).

Article 29

Evaluation and reporting

1. The actions financed under this Regulation will be monitored regularly in order to follow their implementation.

2. The Commission shall ensure the regular, independent, external evaluation of the actions financed.

3. The Commission shall submit to the European Parliament and the Council:

- (a) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the actions financed under this Regulation no later than 31 March 2011;
- (b) a Communication on the continuation of the actions financed under this Regulation no later than 30 August 2012;
- (c) an ex-post evaluation report no later than 31 December 2014.

CHAPTER VIII

FINAL PROVISIONS

Article 30

Committee

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture provided for in Article 30(1) of Regulation (EC) No 2371/2002 (hereinafter referred to as the Committee).
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 20 working days.

3. The Committee shall adopt its Rules of Procedure.

Article 31

Implementing rules

Detailed rules for the application of this Regulation may be drawn-up in accordance with the procedure referred to in Article 30(2) for the measures provided for in Articles 8(a) and 9.

Article 32

Repeal of obsolete acts

Regulation (EC) No 657/2000 and Decisions 2000/439/EC and 2004/465/EC are hereby repealed with effect from 1 January 2007.

Article 33

Entry into force

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

It shall apply from 1 January 2007 until 31 December 2013.

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

Done at Brussels, 22 May 2006.

For the Council

The President

J. PRÖLL
