



Committee
General programme
Solidarity and Management of Migration Flows
Meeting 20 September 2007

Subject: Information - Information from the Commission and exchange of views on the draft Commission Decisions setting out the implementing rules for the External Borders Fund, the Return Fund and the Integration Fund

Summary

Main differences compared with the implementing rules for the European Refugee Fund III

The main differences in comparison with the text of the implementing rules for the European Refugee Fund III are:

- References to articles in the basic acts are amended accordingly;
- Part III, Chapter 2 concerning resettlement and emergency measures (including annex 12) as found in the text on the European Refugee Fund III has been deleted since it does not concern these three other Funds;
- Part III in the text on the External Borders Fund contains a specific chapter on the support for the implementation of the Special Transit Scheme.

With regard to the eligibility rules (Annex 11):

- References to emergency measures have been deleted;
- The rules concerning eligibility of expenditure with regard to territorial scope are specific for each of the Funds (point I.6);
- In the case of the European Return Fund the article in the eligibility rules concerning specific expenses in relation to the target group deals with assistance to returnees, while in the text for the other two Funds it is deleted (point II.1.9);
- Costs for purchase, construction and renovation of real estate are ineligible in the case of the Integration Fund and therefore the relevant articles are deleted and these expenses are mentioned as ineligible expenditure (point III (e));

- Specific rules regarding the eligibility of staff costs, equipment, purchase and rental of real estate and overheads have been drafted for the External Borders Fund (points II.1.1.2, II.1.3.3, II.1.4.2, II.1.4.3 and II.2).
- The eligibility rules for the External Borders Fund contain a specific section with regard to the Special Transit Scheme (Section VI).

RULES ON THE ELIGIBILITY OF EXPENDITURE: COMPARISON BETWEEN THE FOUR FUNDS

Rule	ERF	IF	RETURN	EBF	COMMENTS
Basic principles	Identical for all funds. Small exception in the case of EBF – there is no reference to a target group - point (f).				
Budget of a project (art I.2)	Identical for all Funds.				
Income and non-profit rule (art I.3)	Identical for all Funds.				
Eligibility period (art I.4)	Rule is N+1. Except for: - TA - emergency measures (6 months)	Rule is N+1. Except for: - 2007 Work Programme (N+2) - TA	Rule is N+1. Except for: - TA	Rule is N+1. Except for: - 2007 Work Programme (N+2) - TA	
Record of expenditure (art I.5)	Identical for all Funds				
Territorial scope (art 6)	common for all Funds: <u>Paragraph 1 (a)</u> : Only expenditure incurred by a beneficiary and/or partner established and registered in a MS may be eligible, except for international organisations that pursue the same objectives defined in the basic acts. Paragraph 1 (b): specific – see below. <u>Paragraph 2</u> : Costs for 3 rd country partners are ineligible.				
	Expenses must be incurred in MS, except for actions concerning resettlement - art. 3.(5)	Expenses must be incurred in MS, except for actions concerning pre-travel measures - art. 4.(1).	Expenses can be incurred in MS <u>or</u> in third countries.	Expenses must be incurred in MS, except for actions under art. 3.1 (d) and actions relating to the surveillance of borders.	

Rule	ERF	IF	RETURN	EBF	COMMENTS
Staff (art II.1.1 and II.1.2)	Art II.1.1.1. - General rules are common for all funds: - Staff costs for persons that have a key role in the project are eligible - Staff details to appear in the budget - Type of costs that are eligible (e.g. salary + social security contribution, etc)				For example bonuses are not eligible.
	Art II.1.1.2 – Rules concerning staff in public bodies are the same for ERF, IF and Return. Staff in public bodies are considered eligible only if the following criteria are satisfied: - staff contracted specifically for the project - Permanent staff who carry out tasks on the basis of overtime remuneration; or who are seconded to the project and replaced by another person.	Art II.1.1.2. – Specific rules for EBF: The rules for the other 3 funds also apply but only in the case of staff in public bodies which carry out particular tasks and on condition that the project does not predominantly concern the procurement of equipment.			
Travel costs and subsistence (art II.1.2)	Identical for all 4 Funds. Eligible for staff mentioned in previous point and for other persons participating in activities (meetings; ...)				
Equipment (art II.1.3)	Common for IF, ERF, and Return: Equipment is eligible for purchase (on the basis of depreciation), renting or leasing.			For EBF: In the case of purchasing the full/partial cost is eligible if certain criteria are satisfied (use for a no. of years. If not, depreciation can be applied. Renting and leasing are also eligible.	

Rule	ERF	IF	RETURN	EBF	COMMENTS
Real estate (art II.1.4) (includes purchase, construction and renovation)	Costs for purchase, construction and renovation are eligible on the basis of depreciation.	Only rental costs are eligible.	Costs for purchase, construction and renovation are eligible on the basis of depreciation.	Costs for purchase, construction and renovation are eligible on the basis of full/partial cost if certain criteria are satisfied. If not depreciation can be applied.	This does not include office space for the final beneficiary!
Consumables and general services (art II.1.5)	Identical rule for all four Funds: Consumables, supplies and general services are eligible. This does not include office supplies for the final beneficiary. These are included under indirect costs.				
Subcontracting (art II.1.6)	Identical rule for all four Funds: Subcontracting is allowed up to 40% of direct eligible costs. The final beneficiary <u>cannot</u> subcontract tasks relating to the overall management of the project.				
Costs deriving from the requirements linked to EU co-financing (art II.1.7)	Identical rule for all four Funds: costs for publicity, transparency, external audit, evaluation, bank guarantees, translation, etc.				
Expert fees (art II.1.8)	Identical rule for all four Funds: Legal consultancy fees, notarial fees and financial/ technical experts are eligible.				
Specific expenses in relation to the target group (art II.1.9)	Expenses incurred by the beneficiary for the target group are eligible. Evidence must be kept by the beneficiary.	Not relevant: article does not exist.	Expenses incurred by the beneficiary for the target group are eligible. Evidence must be kept by the beneficiary.	Not relevant: article does not exist.	

Rule	ERF	IF	RETURN	EBF	COMMENTS
Emergency measures (art II.1.10)	Only applicable to ERF: This article provides for derogation from the eligibility rules in the case of emergency measures. The eligibility period for emergency actions shall be 6 months.	Not relevant for IF, Return and EBF: article does not exist.			
Indirect costs (overheads) (art II.2)	For ERF, IF and Return: Indirect eligible costs are eligible up 20%. This is reduced to 10% where the responsible authority is acting as a final beneficiary or subcontracting exceeds 40%.			For EBF: Indirect eligible costs are eligible up 10%. This is reduced to 5% where the responsible authority is acting as a final beneficiary or subcontracting exceeds 40%.	
Ineligible costs (Part III)	Common for all four Funds: VAT, debt, exchange losses, fines, entertainment costs, land, etc. However in the case of IF the purchase, construction and renovation of real estate are also <u>ineligible</u> . Contributions in kind are ineligible.				
Costs covered by assigned income (Part IV)	However, in duly substantiated cases these costs may be considered to be eligible as part of the co-financing (max 50%) by the final beneficiary in the form of permanent staff of public bodies.				
TA (Part V)	Rules are identical for all four Funds.				
Special Transit Scheme (Part VI)	Not relevant for ERF, IF and Return: article does not exist.			The eligibility rules shall also apply to expenditure under the Special Transit Scheme. However certain exceptions apply.	

ANNEX 11
RULES ON THE ELIGIBILITY OF EXPENDITURE
INTEGRATION FUND

I. GENERAL PRINCIPLES

I.1. Basic Principles

1. In accordance with the basic act, for it to be eligible, expenditure must be:
 - a) within the scope of the Fund and within its objectives, as described in Articles 1, 2 and 3 of the basic act;
 - b) within the eligible actions listed in Article 4 of the basic act;
 - c) needed to carry out the activities covered by the project, forming part of the multiannual and annual programmes, as approved by the Commission;
 - d) reasonable and comply with the principles of sound financial management, in particular, value for money and cost-effectiveness;
 - e) incurred by the final beneficiary and/or the partners in the project, who shall be established and registered in a Member State, except in the case of international governmental organisations that pursue the same objectives laid down in the basic act. With regard to Article 39(2) of this Decision, the rules applicable to the final beneficiary shall apply *mutatis mutandis* to the partners in the project;
 - f) linked to the target groups referred to in the framework of the basic act;
 - g) incurred in accordance with the specific provisions in the grant agreement.
2. In the case of multiannual actions within the meaning of Article 13(6) of the basic act, only the part of the action co-financed by an annual programme is considered to be a project for the application of these eligibility rules.
3. Projects supported by the Fund shall not be financed by other sources covered by the Community budget. Projects supported by the Fund shall be co-financed by public or private sources.

I.2. Budget of a project

The budget of a project shall be presented as follows:

<i>Expenditure</i>	<i>Income</i>
+ Direct costs (<i>DC</i>)	+ contribution from the EC (<i>defined as the lowest of the three amounts indicated in Article 12 of this Decision</i>)
+ Indirect costs (<i>fixed percentage of DC, defined in the grant agreement</i>)	+ contribution from the final beneficiary and the partners in the project ¹
+ <i>Costs covered by assigned income (if applicable)</i>	+ contribution from third parties
	+ receipts generated by the project
= Total Eligible Cost (<i>TEC</i>)	= Total Income

The budget shall be balanced: Total Eligible Cost shall be equal to Total Income.

I.3. Income and Non-Profit Principle

1. Projects supported by the Fund must be of a non-profit-making nature. If, at the end of the project, the sources of income, including receipts, exceed expenditure, the contribution to the project from the Fund shall be reduced accordingly. All sources of

¹ Including assigned income as described in point IV

income for the project must be recorded in the final beneficiary's accounts or tax documents, and must be identifiable and controllable.

2. Project income shall come from all financial contributions granted to the project by the Fund, from public or private sources, including the final beneficiary's own contribution, and from any receipts generated by the project. "Receipts" for the purpose of this rule covers revenue received by a project during the eligibility period as described in point I.4, from sales, rentals, services, enrolment/fees or other equivalent income.
3. The Community contribution resulting from the application of the principle of non-profit, as referred to under Article 12(c) of this Decision, will be the "total eligible cost" minus the "contribution from third parties" and "receipts generated by the project".

I.4. Eligibility Period

1. Costs relating to a project must be generated and the respective payments (except for depreciation) made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period is until 31 December of the year N^2+1 , meaning that the costs relating to a project must be generated before this date.
2. An exception to the above-mentioned eligibility period is made for:
 - a) projects supported under the 2007 annual programme, in accordance with Article 33(3) of the basic act;
 - b) technical assistance for Member States (refer to point V(3)).

I.5. Record of expenditure

1. Expenditure shall correspond to payments made by the final beneficiary. These must be in the form of financial (cash) transactions, with the exception of depreciation.
2. As a rule, expenditure shall be justified by official invoices. Where this cannot be done, expenditure shall be supported by accounting documents or supporting documents of equivalent evidential value.
3. Expenditure must be identifiable and verifiable. In particular,
 - a) it must be recorded in the accounting records of the final beneficiary;
 - b) it must be determined in accordance with the applicable accounting standards of the country where the final beneficiary is established and with the usual cost accounting practices of the final beneficiary; and
 - c) it must be declared in accordance with the requirements of applicable tax and social legislation.
4. Where applicable, the final beneficiaries are obliged to keep certified copies of the accounting documents justifying income and expenditure incurred by the partners in relation to the project concerned.
5. The storage and processing of such records must comply with the national data protection legislation.

I.6. Territorial scope

1. Expenditure for actions described in Article 4 of the basic act must be:

² Where "N" is the year referred to in the financing decision approving the annual programmes of Member States.

- a) incurred by the final beneficiaries defined in point I.1(e); and
 - b) incurred in the territory of the Member States, with the exception of actions concerning pre-travel measures referred to in Article 4.1 (c) of the basic act, which may be incurred in the territory of the Member States or in the country of origin.
2. Partners in the project registered and established in third countries may participate in projects on a no-cost basis, except in the case of international governmental organisations. Therefore, costs incurred by these partners are ineligible.

II. CATEGORIES OF ELIGIBLE COSTS (AT PROJECT LEVEL)

II.1. DIRECT ELIGIBLE COSTS

The direct eligible costs of the project are costs that, with due regard to the general conditions of eligibility set out in part I above, are identifiable as specific costs directly linked to the implementation of the project. Direct costs shall be included in the estimated overall budget of the project.

The following direct costs are eligible:

II.1.1. Staff costs

II.1.1.1. General rules

1. Direct costs for staff are eligible only for persons that have a key and direct role in the project, such as project managers and other staff operationally involved in the project, for example planning project activities, implementing (or monitoring) operational activities, delivering services to the final recipients of the project, etc. Costs for other members of staff in the final beneficiary organisation who only provide a supporting role (such as the general manager, accountant, procurement support, human resources support, information technology support, administrative assistant, receptionist, etc.) are not eligible as direct costs and are considered to be indirect costs (see point II.2).
2. Staff costs shall be detailed in the forward budget, indicating functions, number of staff and names.
If the names of the persons are not yet known or cannot be disclosed, indication shall be provided of the professional and technical capacities of the persons set to implement the relevant functions/tasks within the project.
3. The cost of staff assigned to the project, i.e. salaries and social security contributions and other statutory costs, shall be eligible, provided that this does not exceed the average rates as regards the final beneficiary's usual policy on remuneration. Where applicable, this figure may include all the usual contributions paid by the employer, but it must exclude any bonuses, incentive payments or profit-sharing schemes. Levies, taxes or charges (in particular, direct taxes and social security contributions on wages) arising from projects co-financed by the Fund amount to eligible costs only where they are actually borne by the final beneficiary of the grant.

II.1.1.2. Specific conditions for staff costs of public bodies

Staff costs of public bodies implementing the project are considered to be direct eligible costs only in the following situations:

- a) a person contracted by the final beneficiary solely for the purpose of implementing the project;
- b) a person employed on a permanent basis by the final beneficiary who:
 - fulfils tasks specifically linked to the implementation of the project on the basis of overtime remuneration; or
 - is seconded by a duly documented decision of the organisation to tasks that are specifically linked to the implementation of the project which do not form part of his/her normal routine and he/she is replaced for his/her usual tasks by another person recruited by the organisation.

II.1.2. Travel and subsistence costs

1. Travel and subsistence costs are only eligible as direct costs for:
 - a) staff of the final beneficiary whose costs are eligible as defined in point II.1.1;
 - b) in duly exceptional and justified cases, staff of the final beneficiary providing a supporting role as defined in point II.1.1;
 - c) other persons outside the final beneficiary who participate in the activities of the project. In this case, attendance lists should be kept as supporting evidence.
2. Travel costs shall be eligible on the basis of the actual costs incurred. Reimbursement rates shall be based on the cheapest form of public transport and flights shall, as a rule, be permitted only for journeys over 800 km (return trip), or where the geographical destination justifies travelling by air. Boarding passes must be kept. Where a private car is used, reimbursement is normally made either on the basis of the cost of public transport, or on the basis of mileage rates in accordance with published official rules in the Member State concerned or used by the final beneficiary.
3. Subsistence costs shall be eligible on the basis of real costs or a daily allowance. Where an organisation has its own daily rates (subsistence allowances), they shall be applied within ceilings established by the Member State in accordance with national legislation and practice. Subsistence allowances are normally understood to cover local transport (including taxis), accommodation, meals, local telephone calls and sundries.

II.1.3. Equipment

II.1.3.1. General rules

1. Costs pertaining to the acquisition of equipment (based on depreciation of purchased assets, leasing or rental) are only eligible if they are essential to the implementation of the project. Equipment shall have the technical properties needed for the project and comply with applicable norms and standards.
2. Costs for day-to-day administrative equipment (such as printer, laptop, fax, copier, phone, cabling, etc.) are not eligible as direct costs and are to be considered as indirect costs (see point II.2).
3. The choice between leasing, rental or purchase must always be based on the least expensive option. However, if leasing or renting are not possible because of the short duration of the project or the rapid depreciation in value, purchase is accepted and the costs related to depreciation, as described below, may be eligible on the basis of national depreciation rules.

II.1.3.2. Renting and leasing

Expenditure in relation to renting and leasing operations is eligible for co-financing subject to the rules established in the Member State, national legislation and practice and the duration of the rental or lease for the purpose of the project.

II.1.3.3. Purchasing

1. Where equipment is purchased before or during the lifetime of the project, only the portion of equipment depreciation corresponding to the duration of use for the project and the rate of actual use for the project is eligible.
2. Equipment that was purchased before the lifetime of the project, but which is used for the purpose of the project, is eligible on the basis of depreciation. However these costs are ineligible if the equipment was originally purchased through a Community grant.
3. Purchase costs of equipment shall correspond to normal market costs and the value of the items concerned is written off in accordance with the tax and accounting rules applicable to the final beneficiary.
4. For individual items costing below 1 000 euros, the full purchase cost is eligible, provided that the equipment is purchased during the first three months of the project.

II.1.4. Real estate

II.1.4.1. General rules

The real estate shall have the technical properties needed for the project and comply with the applicable norms and standards.

II.1.4.2. Rental

Rental of real estate is eligible for co-financing where there is a clear link between the rental and the objectives of the project concerned, under the conditions set out below and without prejudice to the application of stricter national rules:

- a) The real estate shall not have been purchased through a Community grant.
- b) The real estate should only be used for implementation of the project. If not, only the portion of the costs corresponding to the use for the project is eligible.

II.1.4.3. Office space for the final beneficiary

Costs for the purchase, construction, renovation or rental of office space for the routine activities of the final beneficiary are not eligible. Such costs are considered to be indirect costs (see point II.2).

II.1.5. Consumables, supplies and general services

1. The costs of consumables, supplies and general services are eligible provided that they are identifiable and directly necessary for the implementation of the project.
2. However, office supplies as well as all kinds of small administrative consumables, supplies, hospitality costs and general services (such as telephone, internet, postage, office cleaning, utilities, insurance, staff training, recruitment, etc.) are not direct eligible costs; they are included in indirect costs, as referred to in point II.2.

II.1.6. Subcontracting

1. As a general rule, final beneficiaries must have the capacity to carry out the activities relating to the project themselves. Therefore, subcontracting must be limited and shall not exceed 40% of the direct eligible costs of a project unless duly justified and approved in advance by the responsible authority.

2. Expenditure relating to the following subcontracts is ineligible for co-financing by the Fund:
 - a) subcontracting of tasks relating to the overall management of the project;
 - b) subcontracting that adds to the cost of the project without adding proportionate value to it;
 - c) subcontracting with intermediaries or consultants where payment is defined as a percentage of the total cost of the project, unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided.
3. For all subcontracts, subcontractors shall undertake to provide all audit and control bodies with all the necessary information relating to subcontracted activities.

II.1.7. Costs deriving directly from the requirements linked to EU co-financing

Costs needed to meet the requirements linked to EU co-financing, such as publicity, transparency, evaluation of the project, external audit, bank guarantees, translation costs, etc., are eligible as direct costs.

II.1.8. Expert fees

Legal consultancy fees, notarial fees and costs of technical and financial experts are eligible.

II.2. INDIRECT ELIGIBLE COSTS

1. Indirect costs relate to categories of expenditure that are not identifiable as specific costs directly linked to the project. A fixed percentage of the total amount of *direct eligible costs* may be eligible as indirect costs, provided that:
 - a) the indirect costs are kept to a minimum and the exact percentage of indirect costs is set by the Member State in relation to needs;
 - b) the indirect costs are anticipated in the forward budget of the project;
 - c) the indirect costs do not include costs assigned to another heading of the budget for the project;
 - d) the indirect costs are not financed from other sources. Organisations receiving an operating grant received from the EU budget and/or from the Member States cannot include indirect costs in their forward budget;
 - e) as a general rule, the fixed percentage of indirect costs in relation to the total amount of direct eligible costs does not exceed 20%. However, the fixed percentage of indirect costs shall not exceed 10%:
 - where the responsible authority acts as an executing body as defined in Article 7(3), or
 - where subcontracting exceeds 40% of the eligible direct costs.
2. The percentage allocated to indirect costs shall cover the following costs in particular:
 - a) staff costs that are ineligible as direct costs as per point II.1.1.1 (1);
 - b) administration and management expenses, such as costs identified in II.1.5.2;
 - c) bank fees and charges (except bank guarantees as defined in section II.1.7);
 - d) depreciation of real estate and maintenance costs when linked to day-to-day administrative operations, such as costs identified in II.1.4.4;

- e) all costs linked to the project but excluded from section II.1 - 'Direct Eligible Costs'.

III. INELIGIBLE EXPENDITURE

The following costs are not eligible:

- a) VAT, except where the final beneficiary can show that he is unable to recover it;
- b) return on capital, debt and debt service charges, debit interest, foreign exchange commissions and exchange losses, provisions for losses or potential future liabilities, interest owed, doubtful debts, fines, financial penalties, litigation costs, and excessive or reckless expenditure;
- c) entertainment costs exclusively for project staff. Reasonable hospitality costs at social events justified by the project, such as an event at the end of the project or meetings of the project steering group, are permitted;
- d) costs declared by the final beneficiary and covered by another project or work programme receiving a Community grant;
- e) purchase of land and the purchase, construction and renovation of real estate;
- f) staff costs for officials who contribute to project implementation by accomplishing tasks that are part of their normal routine.
- g) contributions in kind

IV. COSTS COVERED BY ASSIGNED INCOME

- 1. In duly substantiated cases, co-financing of the project as regards the contribution from the final beneficiary and the partners in the project may be made up in part of contributions in terms of work carried out by permanent officials employed by these bodies and involved in the project. In this case these costs are not eligible as direct or indirect staff costs as defined under points II.1.1 and II.2 but as costs covered by assigned income.
- 2. Such contributions shall not exceed 50% of the total contribution given by the final beneficiary. In this case, the following rules shall apply:
 - a) tasks of public officials are specifically linked to implementation of the project and do not arise from the statutory responsibilities of the public authority;
 - b) public officials entrusted with implementing a project are seconded by a duly documented decision of the competent authority ;
 - c) the value of these contributions can be audited and may not exceed the costs actually borne and duly supported by accounting documents of the public authority.

V. TECHNICAL ASSISTANCE AT THE INITIATIVE OF MEMBER STATES

- 1. At the initiative of each Member State, the following technical assistance measures are eligible for each annual programme, within the limits specified in Article 15 of the basic act:
 - a) expenditure relating to the preparation, selection, appraisal, management and monitoring of actions (including computer equipment and consumables);
 - b) expenditure relating to audits and on-the-spot checks of actions or projects;
 - c) expenditure relating to evaluations of actions or projects;
 - d) expenditure relating to information, dissemination and transparency in relation to actions;

- e) expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of the Funds;
 - f) expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions. This expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where their presence is essential to the effective implementation of actions;
 - g) expenditure on salaries, including social security contributions, although only in the following cases:
 - civil servants or other public officials seconded by duly documented decision of the competent authority to carry out tasks referred to in points a) to f);
 - other staff employed to carry out tasks referred to in points a) to f);
 - the period of secondment or employment may not exceed the final date for the eligibility of expenditure laid down in the decision approving the assistance.
2. Technical assistance may finance expenses incurred by any of the following bodies: responsible authority, delegated authority, audit authority, certifying authority.
 3. Activities linked to technical assistance must be performed and the corresponding payments made after 1 January of the year referred to in the financing decision approving the annual programmes of Member States. The eligibility period lasts until the end of June of the year N^3+2 or any later date compatible with the deadline for the submission of the final report on implementation of the annual programme.
 4. Any procurement must be carried out in accordance with national procurement rules established in the Member State.
 5. Member States may implement technical assistance measures for this Fund together with technical assistance measures for some or all of the four Funds. However, in that case only the portion of the costs used to implement the common measure corresponding to this Fund shall be eligible for financing under this Fund, and Member States shall ensure that:
 - a) the portion of costs for common measures is charged to the corresponding Fund in a reasonable and verifiable manner; and
 - b) there is no double financing of costs.

³ Where "N" is the year referred to in the financing decision approving the annual programmes of Member States.

ANNEX 11
RULES ON THE ELIGIBILITY OF EXPENDITURE
EUROPEAN RETURN FUND

I. GENERAL PRINCIPLES

I.1. Basic Principles

1. In accordance with the basic act, for it to be eligible, expenditure must be:
 - a) within the scope of the Fund and within its objectives, as described in Articles 1, 2 and 3 of the basic act;
 - b) within the eligible actions and measures listed in Articles 4 and 5 of the basic act;
 - c) needed to carry out the activities covered by the project, forming part of the multiannual and annual programmes, as approved by the Commission;
 - d) reasonable and comply with the principles of sound financial management, in particular, value for money and cost-effectiveness;
 - e) incurred by the final beneficiary and/or the partners in the project, who shall be established and registered in a Member State, except in the case of international governmental organisations that pursue the same objectives laid down in the basic act. With regard to Article 39(2) of this Decision, the rules applicable to the final beneficiary shall apply *mutatis mutandis* to the partners in the project;
 - f) linked to the target groups defined in Article 7 of the basic act;
 - g) incurred in accordance with the specific provisions in the grant agreement.
2. In the case of multiannual actions within the meaning of Article 15(6) of the basic act, only the part of the action co-financed by an annual programme is considered to be a project for the application of these eligibility rules.
3. Projects supported by the Fund shall not be financed by other sources covered by the Community budget. Projects supported by the Fund shall be co-financed by public or private sources.

I.2. Budget of a project

The budget of a project shall be presented as follows:

<i>Expenditure</i>	<i>Income</i>
+ Direct costs (<i>DC</i>)	+ contribution from the EC (<i>defined as the lowest of the three amounts indicated in Article 12 of this Decision</i>)
+ Indirect costs (<i>fixed percentage of DC, defined in the grant agreement</i>)	+ contribution from the final beneficiary and the partners in the project ⁴
+ <i>Costs covered by assigned income (if applicable)</i>	+ contribution from third parties
	+ receipts generated by the project
= Total Eligible Cost (<i>TEC</i>)	= Total Income

The budget shall be balanced: Total Eligible Cost shall be equal to Total Income.

⁴ Including assigned income as described in point IV.

I.3. Income and Non-Profit Principle

1. Projects supported by the Fund must be of a non-profit-making nature. If, at the end of the project, the sources of income, including receipts, exceed expenditure, the contribution to the project from the Fund shall be reduced accordingly. All sources of income for the project must be recorded in the final beneficiary's accounts or tax documents, and must be identifiable and controllable.
2. Project income shall come from all financial contributions granted to the project by the Fund, from public or private sources, including the final beneficiary's own contribution, and from any receipts generated by the project. "Receipts" for the purpose of this rule covers revenue received by a project during the eligibility period as described in point I.4, from sales, rentals, services, enrolment/fees or other equivalent income.
3. The Community contribution resulting from the application of the principle of non-profit, as referred to under Article 12(c) of this Decision, will be the "total eligible cost" minus the "contribution from third parties" and "receipts generated by the project".

I.4. Eligibility Period

1. Costs relating to a project must be generated and the respective payments (except for depreciation) made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period is until 31 December of the year N⁵+1, meaning that the costs relating to a project must be generated before this date.
2. An exception to the above-mentioned eligibility period is made for technical assistance for Member States (refer to point V(3)).

I.5. Record of expenditure

1. Expenditure shall correspond to payments made by the final beneficiary. These must be in the form of financial (cash) transactions, with the exception of depreciation.
2. As a rule, expenditure shall be justified by official invoices. Where this cannot be done, expenditure shall be supported by accounting documents or supporting documents of equivalent evidential value.
3. Expenditure must be identifiable and verifiable. In particular,
 - a) it must be recorded in the accounting records of the final beneficiary;
 - b) it must be determined in accordance with the applicable accounting standards of the country where the final beneficiary is established and with the usual cost accounting practices of the final beneficiary; and
 - c) it must be declared in accordance with the requirements of applicable tax and social legislation.
4. Where applicable, the final beneficiaries are obliged to keep certified copies of the accounting documents justifying income and expenditure incurred by the partners in relation to the project concerned.
5. The storage and processing of such records must comply with the national data protection legislation.

⁵ Where "N" is the year referred to in the financing decision approving the annual programmes of Member States.

I.6. Territorial scope

1. Expenditure for actions and measures described in Articles 4 and 5 of the basic act must be:
 - a) incurred by the final beneficiaries defined in point I.1(e); and
 - b) incurred in the territory of the Member States or of third countries.
2. Partners in the project registered and established in third countries may participate in projects on a no-cost basis, except in the case of international governmental organisations. Therefore, costs incurred by these partners are ineligible.

II. CATEGORIES OF ELIGIBLE COSTS (AT PROJECT LEVEL)

II.1. DIRECT ELIGIBLE COSTS

The direct eligible costs of the project are costs that, with due regard to the general conditions of eligibility set out in part I above, are identifiable as specific costs directly linked to the implementation of the project. Direct costs shall be included in the estimated overall budget of the project.

The following direct costs are eligible:

II.1.1. Staff costs

II.1.1.1. General rules

1. Direct costs for staff are eligible only for persons that have a key and direct role in the project, such as project managers and other staff operationally involved in the project, for example planning project activities, implementing (or monitoring) operational activities, delivering services to the final recipients of the project, etc. Costs for other members of staff in the final beneficiary organisation who only provide a supporting role (such as the general manager, accountant, procurement support, human resources support, information technology support, administrative assistant, receptionist, etc.) are not eligible as direct costs and are considered to be indirect costs (see point II.2).
2. Staff costs shall be detailed in the forward budget, indicating functions, number of staff and names.

If the names of the persons are not yet known or cannot be disclosed, indication shall be provided of the professional and technical capacities of the persons set to implement the relevant functions/tasks within the project.
3. The cost of staff assigned to the project, i.e. salaries and social security contributions and other statutory costs, shall be eligible, provided that this does not exceed the average rates as regards the final beneficiary's usual policy on remuneration. Where applicable, this figure may include all the usual contributions paid by the employer, but it must exclude any bonuses, incentive payments or profit-sharing schemes. Levies, taxes or charges (in particular, direct taxes and social security contributions on wages) arising from projects co-financed by the Fund amount to eligible costs only where they are actually borne by the final beneficiary of the grant.

II.1.1.2. Specific conditions for staff costs of public bodies

Staff costs of public bodies implementing the project are considered to be direct eligible costs only in the following situations:

- a) a person contracted by the final beneficiary solely for the purpose of implementing the project;
- b) a person employed on a permanent basis by the final beneficiary who:
 - fulfils tasks specifically linked to the implementation of the project on the basis of overtime remuneration; or
 - is seconded by a duly documented decision of the organisation to tasks that are specifically linked to the implementation of the project which do not form part of his/her normal routine and he/she is replaced for his/her usual tasks by another person recruited by the organisation.

II.1.2. Travel and subsistence costs

1. Travel and subsistence costs are only eligible as direct costs for:
 - a) staff of the final beneficiary whose costs are eligible as defined in point II.1.1;
 - b) in duly exceptional and justified cases, staff of the final beneficiary providing a supporting role as defined in point II.1.1;
 - c) other persons outside the final beneficiary who participate in the activities of the project. In this case, attendance lists should be kept as supporting evidence.
2. Travel costs shall be eligible on the basis of the actual costs incurred. Reimbursement rates shall be based on the cheapest form of public transport and flights shall, as a rule, be permitted only for journeys over 800 km (return trip), or where the geographical destination justifies travelling by air. Boarding passes must be kept. Where a private car is used, reimbursement is normally made either on the basis of the cost of public transport, or on the basis of mileage rates in accordance with published official rules in the Member State concerned or used by the final beneficiary.
3. Subsistence costs shall be eligible on the basis of real costs or a daily allowance. Where an organisation has its own daily rates (subsistence allowances), they shall be applied within ceilings established by the Member State in accordance with national legislation and practice. Subsistence allowances are normally understood to cover local transport (including taxis), accommodation, meals, local telephone calls and sundries.

II.1.3. Equipment

II.1.3.1. General rules

1. Costs pertaining to the acquisition of equipment (based on depreciation of purchased assets, leasing or rental) are only eligible if they are essential to the implementation of the project. Equipment shall have the technical properties needed for the project and comply with applicable norms and standards.
2. Costs for day-to-day administrative equipment (such as printer, laptop, fax, copier, phone, cabling, etc.) are not eligible as direct costs and are to be considered as indirect costs (see point II.2).
3. The choice between leasing, rental or purchase must always be based on the least expensive option. However, if leasing or renting are not possible because of the short duration of the project or the rapid depreciation in value, purchase is accepted and the costs related to depreciation, as described below, may be eligible on the basis of national depreciation rules.

II.1.3.2. Renting and leasing

Expenditure in relation to renting and leasing operations is eligible for co-financing subject to the rules established in the Member State, national legislation and practice and the duration of the rental or lease for the purpose of the project.

II.1.3.3. Purchasing

1. Where equipment is purchased before or during the lifetime of the project, only the portion of equipment depreciation corresponding to the duration of use for the project and the rate of actual use for the project is eligible.
2. Equipment that was purchased before the lifetime of the project, but which is used for the purpose of the project, is eligible on the basis of depreciation. However these costs are ineligible if the equipment was originally purchased through a Community grant.
3. Purchase costs of equipment shall correspond to normal market costs and the value of the items concerned is written off in accordance with the tax and accounting rules applicable to the final beneficiary.
4. For individual items costing below 1 000 euros, the full purchase cost is eligible, provided that the equipment is purchased during the first three months of the project.

II.1.4. Real estate

II.1.4.1. General rules

In the case of either purchase of real estate, construction or renovation of real estate, or rental of real estate, it shall have the technical properties needed for the project and comply with the applicable norms and standards.

II.1.4.2. Purchase, construction or renovation

1. Where the acquisition of real estate is essential for implementation of the project and is clearly linked with its objectives, the purchase of real estate, i.e. buildings already constructed, or construction of real estate, is eligible for co-financing under the conditions set out below, without prejudice to the application of stricter national rules:
 - a) A certificate shall be obtained from an independent qualified valuer or duly authorised official body establishing that the price does not exceed the market value, either attesting that the real estate is in conformity with national regulations or specifying the points which are not in conformity that the final beneficiary plans to rectify as part of the project.
 - b) The real estate has not been purchased through a Community grant at any time prior to the implementation of the project.
 - c) The real estate is to be used solely for the purpose stated in the project for a period of at least five years after the end date of the project unless the Commission specifically authorises otherwise.
 - d) Only the portion of the depreciation of these assets corresponding to the duration of use for the project and the rate of actual use for the project is eligible. Depreciation shall be calculated according to national accounting rules.
2. In the case of renovation, only conditions (c) and (d) above apply.

II.1.4.3. Rental

Rental of real estate is eligible for co-financing where there is a clear link between the rental and the objectives of the project concerned, under the conditions set out below and without prejudice to the application of stricter national rules:

- a) The real estate shall not have been purchased through a Community grant.
- b) The real estate should only be used for implementation of the project. If not, only the portion of the costs corresponding to the use for the project is eligible.

II.1.4.4. Office space for the final beneficiary

Costs for the purchase, construction, renovation or rental of office space for the routine activities of the final beneficiary are not eligible. Such costs are considered to be indirect costs (see point II.2).

II.1.5. Consumables, supplies and general services

1. The costs of consumables, supplies and general services are eligible provided that they are identifiable and directly necessary for the implementation of the project.
2. However, office supplies as well as all kinds of small administrative consumables, supplies, hospitality costs and general services (such as telephone, internet, postage, office cleaning, utilities, insurance, staff training, recruitment, etc.) are not direct eligible costs; they are included in indirect costs, as referred to in point II.2.

II.1.6. Subcontracting

1. As a general rule, final beneficiaries must have the capacity to carry out the activities relating to the project themselves. Therefore, subcontracting must be limited and shall not exceed 40% of the direct eligible costs of a project unless duly justified and approved in advance by the responsible authority.
2. Expenditure relating to the following subcontracts is ineligible for co-financing by the Fund:
 - a) subcontracting of tasks relating to the overall management of the project;
 - b) subcontracting that adds to the cost of the project without adding proportionate value to it;
 - c) subcontracting with intermediaries or consultants where payment is defined as a percentage of the total cost of the project, unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided.
3. For all subcontracts, subcontractors shall undertake to provide all audit and control bodies with all the necessary information relating to subcontracted activities.

II.1.7. Costs deriving directly from the requirements linked to EU co-financing

Costs needed to meet the requirements linked to EU co-financing, such as publicity, transparency, evaluation of the project, external audit, bank guarantees, translation costs, etc., are eligible as direct costs.

II.1.8. Expert fees

Legal consultancy fees, notarial fees and costs of technical and financial experts are eligible.

II.1.9. Specific expenses in relation to the target group

1. Specific expenses for the target group in accordance with the measures listed in Article 5 of the basic act will consist of full or partial support in the form of:

- a) Costs incurred by the beneficiary for the target groups;
 - b) Costs incurred by returnees which are then reimbursed by the final beneficiary; or
 - c) Non-reimbursable lump sums (as in the case of limited start-up support for economic activities and cash incentives for returnees, as described in Article 5(8) and (9) of the basic act).
2. These costs are eligible under the following conditions:
- a) The final beneficiary shall keep the necessary information and evidence that the persons correspond to the specific target groups and situations defined in Article 5 of the basic act making them eligible to receive such assistance.
 - b) The final beneficiary shall keep the necessary information on the returnees receiving this assistance to allow proper identification of these persons, the date of their return to their country, and evidence that these persons have received this assistance.
 - c) The final beneficiary shall keep evidence of the support provided (such as invoices and receipts) and in the case of lump-sums evidence must be kept that the persons have received this support.

The storage and processing of the above-mentioned information must comply with national data protection legislation.

3. Assistance measures following the return to the third country, such as training and employment assistance, short-term measures necessary for the reintegration process and post-return assistance as described in Article 5(5), (8) and (9) of the basic act respectively shall not exceed the duration of 6 months following the date of the return of the third-country national.

II.2. INDIRECT ELIGIBLE COSTS

1. Indirect costs relate to categories of expenditure that are not identifiable as specific costs directly linked to the project. A fixed percentage of the total amount of *direct eligible costs* may be eligible as indirect costs, provided that:
- a) the indirect costs are kept to a minimum and the exact percentage of indirect costs is set by the Member State in relation to needs;
 - b) the indirect costs are anticipated in the forward budget of the project;
 - c) the indirect costs do not include costs assigned to another heading of the budget for the project;
 - d) the indirect costs are not financed from other sources. Organisations receiving an operating grant received from the EU budget and/or from the Member States cannot include indirect costs in their forward budget;
 - e) as a general rule, the fixed percentage of indirect costs in relation to the total amount of direct eligible costs does not exceed 20%. However, the fixed percentage of indirect costs shall not exceed 10%:
 - where the responsible authority acts as an executing body as defined in Article 7(3), or
 - where subcontracting exceeds 40% of the eligible direct costs.
2. The percentage allocated to indirect costs shall cover the following costs in particular:
- a) staff costs that are ineligible as direct costs as per point II.1.1.1 (1);

- b) administration and management expenses, such as costs identified in II.1.5.2;
- c) bank fees and charges (except bank guarantees as defined in section II.1.7);
- d) depreciation of real estate and maintenance costs when linked to day-to-day administrative operations, such as costs identified in II.1.4.4;
- e) all costs linked to the project but excluded from section II.1 - ' Direct Eligible Costs'.

III. INELIGIBLE EXPENDITURE

The following costs are not eligible:

- a) VAT, except where the final beneficiary can show that he is unable to recover it;
- b) return on capital, debt and debt service charges, debit interest, foreign exchange commissions and exchange losses, provisions for losses or potential future liabilities, interest owed, doubtful debts, fines, financial penalties, litigation costs, and excessive or reckless expenditure;
- c) entertainment costs exclusively for project staff. Reasonable hospitality costs at social events justified by the project, such as an event at the end of the project or meetings of the project steering group, are permitted;
- d) costs declared by the final beneficiary and covered by another project or work programme receiving a Community grant;
- e) purchase of land;
- f) staff costs for officials who contribute to project implementation by accomplishing tasks that are part of their normal routine.
- g) contributions in kind

IV. COSTS COVERED BY ASSIGNED INCOME

1. In duly substantiated cases, co-financing of the project as regards the contribution from the final beneficiary and the partners in the project may be made up in part of contributions in terms of work carried out by permanent officials employed by these bodies and involved in the project. In this case these costs are not eligible as direct or indirect staff costs as defined under points II.1.1 and II.2 but as costs covered by assigned income.
2. Such contributions shall not exceed 50% of the total contribution given by the final beneficiary. In this case, the following rules shall apply:
 - a) tasks of public officials are specifically linked to implementation of the project and do not arise from the statutory responsibilities of the public authority;
 - b) public officials entrusted with implementing a project are seconded by a duly documented decision of the competent authority ;
 - c) the value of these contributions can be audited and may not exceed the costs actually borne and duly supported by accounting documents of the public authority.

V. TECHNICAL ASSISTANCE AT THE INITIATIVE OF MEMBER STATES

1. At the initiative of each Member State, the following technical assistance measures are eligible for each annual programme, within the limits specified in Article 17 of the basic act:
 - a) expenditure relating to the preparation, selection, appraisal, management and monitoring of actions (including computer equipment and consumables);

- b) expenditure relating to audits and on-the-spot checks of actions or projects;
 - c) expenditure relating to evaluations of actions or projects;
 - d) expenditure relating to information, dissemination and transparency in relation to actions;
 - e) expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of the Funds;
 - f) expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions. This expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where their presence is essential to the effective implementation of actions;
 - g) expenditure on salaries, including social security contributions, although only in the following cases:
 - civil servants or other public officials seconded by duly documented decision of the competent authority to carry out tasks referred to in points a) to f);
 - other staff employed to carry out tasks referred to in points a) to f);
 - the period of secondment or employment may not exceed the final date for the eligibility of expenditure laid down in the decision approving the assistance.
2. Technical assistance may finance expenses incurred by any of the following bodies: responsible authority, delegated authority, audit authority, certifying authority.
 3. Activities linked to technical assistance must be performed and the corresponding payments made after 1 January of the year referred to in the financing decision approving the annual programmes of Member States. The eligibility period lasts until the end of June of the year N⁶+2 or any later date compatible with the deadline for the submission of the final report on implementation of the annual programme.
 4. Any procurement must be carried out in accordance with national procurement rules established in the Member State.
 5. Member States may implement technical assistance measures for this Fund together with technical assistance measures for some or all of the four Funds. However, in that case only the portion of the costs used to implement the common measure corresponding to this Fund shall be eligible for financing under this Fund, and Member States shall ensure that:
 - a) the portion of costs for common measures is charged to the corresponding Fund in a reasonable and verifiable manner; and
 - b) there is no double financing of costs.

⁶ Where "N" is the year referred to in the financing decision approving the annual programmes of Member States.

ANNEX 11
RULES ON THE ELIGIBILITY OF EXPENDITURE
EXTERNAL BORDERS FUND

I. GENERAL PRINCIPLES

I.1. Basic Principles

1. In accordance with the basic act, for it to be eligible, expenditure must be:
 - a) within the scope of the Fund and within its objectives, as described in Articles 1 and 3 of the basic act;
 - b) within the eligible actions listed in Articles 4 and 6 of the basic act;
 - c) needed to carry out the activities covered by the project, forming part of the multiannual and annual programmes, as approved by the Commission;
 - d) reasonable and comply with the principles of sound financial management, in particular, value for money and cost-effectiveness;
 - e) incurred by the final beneficiary and/or the partners in the project, who shall be established and registered in a Member State, except in the case of international governmental organisations that pursue the same objectives laid down in the basic act. With regard to Article 39 of this Decision, the rules applicable to the final beneficiary shall apply *mutatis mutandis* to the partners in the project;
 - f) incurred in accordance with the specific provisions in the grant agreement.
2. In the case of multiannual actions within the meaning of Article 16(6) of the basic act, only the part of the action co-financed by an annual programme is considered to be a project for the application of these eligibility rules.
3. Projects supported by the Fund shall not be financed by other sources covered by the Community budget. Projects supported by the Fund shall be co-financed by public or private sources.

I.2. Budget of a project

The budget of a project shall be presented as follows:

<i>Expenditure</i>	<i>Income</i>
+ Direct costs (<i>DC</i>)	+ contribution from the EC (<i>defined as the lowest of the three amounts indicated in Article 12 of this Decision</i>)
+ Indirect costs (<i>fixed percentage of DC, defined in the grant agreement</i>)	+ contribution from the final beneficiary and the partners in the project ⁷
+ <i>Costs covered by assigned income (if applicable)</i>	+ contribution from third parties
	+ receipts generated by the project
= Total Eligible Cost (<i>TEC</i>)	= Total Income

The budget shall be balanced: Total Eligible Cost shall be equal to Total Income.

I.3. Income and Non-Profit Principle

⁷ Including assigned income as described in point IV.

1. Projects supported by the Fund must be of a non-profit-making nature. If, at the end of the project, the sources of income, including receipts, exceed expenditure, the contribution to the project from the Fund shall be reduced accordingly. All sources of income for the project must be recorded in the final beneficiary's accounts or tax documents, and must be identifiable and controllable.
2. Project income shall come from all financial contributions granted to the project by the Fund, from public or private sources, including the final beneficiary's own contribution, and from any receipts generated by the project. "Receipts" for the purpose of this rule covers revenue received by a project during the eligibility period as described in point I.4, from sales, rentals, services, enrolment/fees or other equivalent income.
3. The Community contribution resulting from the application of the principle of non-profit, as referred to under Article 12(c) of this Decision, will be the "total eligible cost" minus the "contribution from third parties" and "receipts generated by the project".

I.4. Eligibility Period

1. Costs relating to a project must be generated and the respective payments (except for depreciation) made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period is until 31 December of the year N⁸+1, meaning that the costs relating to a project must be generated before this date.
2. An exception to the above-mentioned eligibility period is made for:
 - a) projects supported under the 2007 annual programme, in accordance with Article 37(3) of the basic act;
 - b) technical assistance for Member States (refer to point V(3)).

I.5. Record of expenditure

1. Expenditure shall correspond to payments made by the final beneficiary. These must be in the form of financial (cash) transactions, with the exception of depreciation.
2. As a rule, expenditure shall be justified by official invoices. Where this cannot be done, expenditure shall be supported by accounting documents or supporting documents of equivalent evidential value.
3. Expenditure must be identifiable and verifiable. In particular,
 - a) it must be recorded in the accounting records of the final beneficiary;
 - b) it must be determined in accordance with the applicable accounting standards of the country where the final beneficiary is established and with the usual cost accounting practices of the final beneficiary; and
 - c) it must be declared in accordance with the requirements of applicable tax and social legislation.
4. Where applicable, the final beneficiaries are obliged to keep certified copies of the accounting documents justifying income and expenditure incurred by the partners in relation to the project concerned.
5. The storage and processing of such records must comply with the national data protection legislation.

⁸ Where "N" is the year referred to in the financing decision approving the annual programmes of Member States.

I.6. Territorial scope

1. Expenditure for actions described in Articles 4 and 6 of the basic act must be incurred in the territory of the Member States, by the final beneficiaries defined in point 1 (e), with the exception of:
 - Expenditure implementing actions relating to the general objective defined in Article 3(1) (d) of the basic act. These actions may be incurred in the territory of the Member States and in third countries;
 - Actions relating to the surveillance of external borders. These actions can take place both within and beyond the territory of Member States.
2. Partners in the project registered and established in third countries may participate in projects on a no-cost basis, except in the case of international governmental organisations. Therefore, costs incurred by these partners are ineligible.

II. CATEGORIES OF ELIGIBLE COSTS (AT PROJECT LEVEL)

II.1. DIRECT ELIGIBLE COSTS

The direct eligible costs of the project are costs that, with due regard to the general conditions of eligibility set out in part I above, are identifiable as specific costs directly linked to the implementation of the project. Direct costs shall be included in the estimated overall budget of the project.

The following direct costs are eligible:

II.1.1. Staff costs

II.1.1.1. General rules

1. Direct costs for staff are eligible only for persons that have a key and direct role in the project, such as project managers and other staff operationally involved in the project, for example planning project activities, implementing (or monitoring) operational activities, delivering services to the final recipients of the project, etc. Costs for other members of staff in the final beneficiary organisation who only provide a supporting role (such as the general manager, accountant, procurement support, human resources support, information technology support, administrative assistant, receptionist, etc.) are not eligible as direct costs and are considered to be indirect costs (see point II.2).
2. Staff costs shall be detailed in the forward budget, indicating functions, number of staff and names.
If the names of the persons are not yet known or cannot be disclosed, indication shall be provided of the professional and technical capacities of the persons set to implement the relevant functions/tasks within the project.
3. The cost of staff assigned to the project, i.e. salaries and social security contributions and other statutory costs, shall be eligible, provided that this does not exceed the average rates as regards the final beneficiary's usual policy on remuneration. Where applicable, this figure may include all the usual contributions paid by the employer, but it must exclude any bonuses, incentive payments or profit-sharing schemes. Levies, taxes or charges (in particular, direct taxes and social security contributions

on wages) arising from projects co-financed by the Fund amount to eligible costs only where they are actually borne by the final beneficiary of the grant.

II.1.1.2. Specific conditions for staff costs of public bodies

Staff costs for public bodies in charge of implementing the project are considered as eligible direct costs only in the following situations:

1. In accordance with the tasks carried out in relation to the project as well as the duration of the project, costs for staff of consular and other services of Member States in third countries competent in the management of flows of third-country nationals into the territory of the Member States, such as consular officers, air line officers and immigration liaison officers, are considered as direct eligible costs, provided that the purpose of the project is to improve the co-operation between Member States and involves the sharing of tasks and responsibilities for the benefit of more than two participating Member States.
2. Costs for staff of other authorities and services of Member States concerned by the basic act, such as border guards provided that:
 - a) the project does not predominantly concern the procurement of equipment or real estate as referred to in points II.1.3 and II.1.4 below; and
 - b) the project consists mainly of tasks which require the active and continuous input by staff such as the organisation of meetings and management processes for exchange of information or best practices, consultation and coordination mechanisms, training or education of staff and programmes for the secondment and exchange of staff.

In such cases, the staff costs are considered as direct eligible costs for:

- a person contracted by the final beneficiary solely for the purpose of implementing the project;
- a person employed on a permanent basis by the final beneficiary who:
 - i. fulfils tasks specifically linked to the implementation of the project on the basis of overtime remuneration; or
 - ii. is seconded by a duly documented decision of the organisation to tasks that are specifically linked to the implementation of the project and which do not form part of his/her normal routine and he/she is replaced for his/her usual tasks by another person recruited by the organisation.

II.1.2. Travel and subsistence costs

1. Travel and subsistence costs are only eligible as direct costs for:
 - a) staff of the final beneficiary whose costs are eligible as defined in point II.1.1;
 - b) in duly exceptional and justified cases, staff of the final beneficiary providing a supporting role as defined in point II.1.1;
 - c) other persons outside the final beneficiary who participate in the activities of the project. In this case, attendance lists should be kept as supporting evidence.
2. Travel costs shall be eligible on the basis of the actual costs incurred. Reimbursement rates shall be based on the cheapest form of public transport and flights shall, as a rule, be permitted only for journeys over 800 km (return trip), or where the geographical destination justifies travelling by air. Boarding passes must be kept. Where a private car is used, reimbursement is normally made either on the basis of the cost of public transport, or on the basis of mileage rates in accordance

with published official rules in the Member State concerned or used by the final beneficiary.

3. Subsistence costs shall be eligible on the basis of real costs or a daily allowance. Where an organisation has its own daily rates (subsistence allowances), they shall be applied within ceilings established by the Member State in accordance with national legislation and practice. Subsistence allowances are normally understood to cover local transport (including taxis), accommodation, meals, local telephone calls and sundries.

II.1.3. Equipment

II.1.3.1. General rules

1. The co-financing of costs pertaining to the acquisition of equipment (based on any of the following: rental, leasing, purchase based on the full or partial cost, or depreciation of purchased assets) are only eligible if they are essential to the implementation of the project. Equipment shall have the technical properties needed for the project and comply with applicable norms and standards.
2. Costs for day-to-day administrative equipment (such as printer, laptop, fax, copier, phone, cabling, etc.) are not eligible as direct costs and are to be considered as indirect costs (see point II.2).

II.1.3.2. Renting and leasing

Expenditure in relation to renting and leasing operations is eligible for co-financing subject to the rules established in the Member State, national legislation and practice and the duration of the rental or lease for the purpose of the project.

II.1.3.3. Purchasing

1. Costs pertaining to the acquisition of equipment (systems, operating equipment, means of transport, inter alia as referred to in Article 5(1) (c) to (f) of the basic act) are eligible in accordance with national rules. Such costs are eligible for co-financing on the basis of the full or partial cost of the purchase if:
 - a) they are directly linked to the realisation of the project;
 - b) incurred in accordance with national procurement rules established in the Member State;
 - c) the equipment has the technical characteristics necessary for the project and complies with applicable norms and standards;
 - d) the equipment will continue to be used for the same objectives pursued by the project, even after the project has ended for the minimum duration of:
 - three years or more for Information and Communication Technology (ICT) equipment.
 - five years or more for other types of equipment such as operating equipment and means of transport, except for the ones indicated below
 - ten years for helicopters, vessels and aircrafts.
2. Costs for the above-mentioned equipment may be eligible on the basis of depreciation in accordance with national rules. In that case the above conditions (a), (b) and (c) shall apply. Furthermore, the following conditions must also be satisfied:
 - a) Where equipment is purchased before or during the lifetime of the project, the portion of equipment depreciation is eligible on the basis of the duration of use for the project and the rate of actual use for the project.

- b) Equipment that was purchased before the lifetime of the project, but which is used for the purpose of the project, is eligible on the basis of depreciation. However these costs are ineligible if the equipment was originally purchased through a Community grant.
- c) Purchase costs of equipment shall correspond to normal market costs and the value of the items concerned is written off in accordance with the tax and accounting rules applicable to the final beneficiary.

II.1.4. Real estate

II.1.4.1. General rules

In the case of either purchase of real estate, construction or renovation of real estate, or rental of real estate, it shall have the technical properties needed for the project and comply with the applicable norms and standards.

II.1.4.2. Purchase, construction or renovation

1. If the acquisition of real estate is essential for implementation of the project and is clearly linked with its objectives, the purchase of real estate, i.e. buildings already constructed, or construction of real estate, is eligible for co-financing on the basis of the full or partial cost, or on the basis of depreciation, under the conditions set out below, without prejudice to the application of stricter national rules:
 - a) A certificate shall be obtained from an independent qualified valuer or duly authorised official body establishing that the price does not exceed the market value, either attesting that the real estate is in conformity with national regulations or specifying the points which are not in conformity that the final beneficiary plans to rectify as part of the project.
 - b) The real estate has not been purchased through a Community grant at any time prior to the implementation of the project.
 - c) The real estate is to be used solely for the purpose stated in the project for a period of at least ten years after the end date of the project unless the Commission specifically authorises otherwise in the case of co-financing of the full or partial costs. In the case of co-financing on the basis of depreciation this period is reduced to five years.
 - d) The purchase of the real estate respects the principles of value for money and cost-effectiveness and is being considered as proportionate to the aim to be achieved through the implementation of the project.
 - e) In the case of co-financing on the basis of depreciation, only the portion of the depreciation of these assets corresponding to the duration of use for the project and the rate of actual use for the project is eligible. Depreciation shall be calculated according to national accounting rules.
2. Expenses for renovation of real estate are eligible for co-financing on the basis of the full or partial cost or on the basis of depreciation. In the case of renovation costs only conditions (c) and (e) above apply.

II.1.4.3. Rental

Rental of real estate is eligible for co-financing where there is a clear link between the rental and the objectives of the project concerned, under the conditions set out below and without prejudice to the application of stricter national rules:

- a) The real estate shall not have been purchased through a Community grant.
- b) The real estate should only be used for implementation of the project. If not, only the portion of the costs corresponding to the use for the project is eligible.

II.1.4.4. Office space for the final beneficiary

Costs for the purchase, construction, renovation or rental of office space for the routine activities of the final beneficiary are not eligible. Such costs are considered to be indirect costs (see point II.2).

II.1.5. Consumables, supplies and general services

1. The costs of consumables, supplies and general services are eligible provided that they are identifiable and directly necessary for the implementation of the project.
2. However, office supplies as well as all kinds of small administrative consumables, supplies, hospitality costs and general services (such as telephone, internet, postage, office cleaning, utilities, insurance, staff training, recruitment, etc.) are not direct eligible costs; they are included in indirect costs, as referred to in point II.2.

II.1.6. Subcontracting

1. As a general rule, final beneficiaries must have the capacity to carry out the activities relating to the project themselves. Therefore, subcontracting must be limited and shall not exceed 40% of the direct eligible costs of a project unless duly justified and approved in advance by the responsible authority.
2. Expenditure relating to the following subcontracts is ineligible for co-financing by the Fund:
 - a) subcontracting of tasks relating to the overall management of the project;
 - b) subcontracting that adds to the cost of the project without adding proportionate value to it;
 - c) subcontracting with intermediaries or consultants where payment is defined as a percentage of the total cost of the project, unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided.
3. For all subcontracts, subcontractors shall undertake to provide all audit and control bodies with all the necessary information relating to subcontracted activities.

II.1.7. Costs deriving directly from the requirements linked to EU co-financing

Costs needed to meet the requirements linked to EU co-financing, such as publicity, transparency, evaluation of the project, external audit, bank guarantees, translation costs, etc., are eligible as direct costs.

II.1.8. Expert fees

Legal consultancy fees, notarial fees and costs of technical and financial experts are eligible.

II.2. INDIRECT ELIGIBLE COSTS

1. Indirect costs relate to categories of expenditure that are not identifiable as specific costs directly linked to the project. A fixed percentage of the total amount of *direct eligible costs* may be eligible as indirect costs, provided that:
 - a) the indirect costs are kept to a minimum and the exact percentage of indirect costs is set by the Member State in relation to needs;
 - b) the indirect costs are anticipated in the forward budget of the project;
 - c) the indirect costs do not include costs assigned to another heading of the budget for the project;

- d) the indirect costs are not financed from other sources. Organisations receiving an operating grant received from the EU budget and/or from the Member States cannot include indirect costs in their forward budget;
 - e) as a general rule, the fixed percentage of indirect costs in relation to the total amount of direct eligible costs does not exceed 5%. However, the fixed percentage of indirect costs shall not exceed 2.5% in any of the following situations:
 - where the responsible authority acts as an executing body as defined in Article 7(3), or
 - where the combined total of subcontracting (II.1.6) and procurement (points II.1.3 and II.1.4) exceeds 40% of the eligible direct costs.
2. The percentage allocated to indirect costs shall cover the following costs in particular:
- a) staff costs that are ineligible as direct costs as per point II.1.1.1 (1);
 - b) administration and management expenses, such as costs identified in II.1.5.2;
 - c) bank fees and charges (except bank guarantees as defined in section II.1.7);
 - d) costs for real estate and maintenance costs when linked to day-to-day administrative operations, such as costs identified in II.1.4.4;
 - e) all costs linked to the project but excluded from section II.1 - 'Direct Eligible Costs'.

III. INELIGIBLE EXPENDITURE

The following costs are not eligible:

- a) VAT, except where the final beneficiary can show that he is unable to recover it;
- b) return on capital, debt and debt service charges, debit interest, foreign exchange commissions and exchange losses, provisions for losses or potential future liabilities, interest owed, doubtful debts, fines, financial penalties, litigation costs, and excessive or reckless expenditure;
- c) entertainment costs exclusively for project staff. Reasonable hospitality costs at social events justified by the project, such as an event at the end of the project or meetings of the project steering group, are permitted;
- d) costs declared by the final beneficiary and covered by another project or work programme receiving a Community grant;
- e) purchase of land;
- f) staff costs for officials who contribute to project implementation by accomplishing tasks that are part of their normal routine.
- g) contributions in kind

IV. COSTS COVERED BY ASSIGNED INCOME

1. In duly substantiated cases, co-financing of the project as regards the contribution from the final beneficiary and the partners in the project may be made up in part of contributions in terms of work carried out by permanent officials employed by these bodies and involved in the project. In this case these costs are not eligible as direct or indirect staff costs as defined under points II.1.1 and II.2 but as costs covered by assigned income.
2. Such contributions shall not exceed 50% of the total contribution given by the final beneficiary. In this case, the following rules shall apply:

- a) tasks of public officials are specifically linked to implementation of the project and do not arise from the statutory responsibilities of the public authority;
- b) public officials entrusted with implementing a project are seconded by a duly documented decision of the competent authority ;
- c) the value of these contributions can be audited and may not exceed the costs actually borne and duly supported by accounting documents of the public authority.

V. TECHNICAL ASSISTANCE AT THE INITIATIVE OF MEMBER STATES

1. At the initiative of each Member State, the following technical assistance measures are eligible for each annual programme, within the limits specified in Article 18 of the basic act:
 - a) expenditure relating to the preparation, selection, appraisal, management and monitoring of actions (including computer equipment and consumables);
 - b) expenditure relating to audits and on-the-spot checks of actions or projects;
 - c) expenditure relating to evaluations of actions or projects;
 - d) expenditure relating to information, dissemination and transparency in relation to actions;
 - e) expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of the Funds;
 - f) expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions. This expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where their presence is essential to the effective implementation of actions;
 - g) expenditure on salaries, including social security contributions, although only in the following cases:
 - civil servants or other public officials seconded by duly documented decision of the competent authority to carry out tasks referred to in points a) to f);
 - other staff employed to carry out tasks referred to in points a) to f);
 - the period of secondment or employment may not exceed the final date for the eligibility of expenditure laid down in the decision approving the assistance.
2. Technical assistance may finance expenses incurred by any of the following bodies: responsible authority, delegated authority, audit authority, certifying authority.
3. Activities linked to technical assistance must be performed and the corresponding payments made after 1 January of the year referred to in the financing decision approving the annual programmes of Member States. The eligibility period lasts until the end of June of the year N⁹+2 or any later date compatible with the deadline for the submission of the final report on implementation of the annual programme.
4. Any procurement must be carried out in accordance with national procurement rules established in the Member State.
5. Member States may implement technical assistance measures for this Fund together with technical assistance measures for some or all of the four Funds. However, in

⁹ Where "N" is the year referred to in the financing decision approving the annual programmes of Member States.

that case only the portion of the costs used to implement the common measure corresponding to this Fund shall be eligible for financing under this Fund, and Member States shall ensure that:

- a) the portion of costs for common measures is charged to the corresponding Fund in a reasonable and verifiable manner; and
- b) there is no double financing of costs.

VI. SPECIAL TRANSIT SCHEME

In accordance with Article 40 (1), the rules in the basic act and this Decision regarding the implementation of annual programmes shall apply *mutatis mutandis* to the support for the implementation of the Special Transit Scheme. However, with regard to the eligibility rules contained in this annex, the following specific rules shall apply in the case of the Special Transit Scheme:

- a) the eligibility period for expenditure shall be in accordance with Article 40 (4) of this Decision;
- b) by virtue of Article 6(2), paragraph (c) of the basic act, costs for staff specifically implementing the special transit scheme are considered as eligible direct costs in accordance with the general rules described in point II.1.1.1, paragraphs 2 and 3;
- c) by virtue of Article 6(2), paragraph (c) of the basic act, travel and subsistence costs for staff specifically implementing the special transit scheme are considered as eligible direct costs;
- d) point II.1.3.1 paragraph 2 shall not apply;
- e) point II.1.4.4 shall not apply;
- f) point II.1.5 paragraph 2 shall not apply;
- g) Indirect costs (Section II.2) shall be ineligible;
- h) Section III, point (f) shall not apply.