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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.10.2009
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2009/0148 (CNS)

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Community, of an Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013

EXPLANATORY MEMORANDUM

1. POLITICAL AND LEGAL BACKGROUND

On 18 May 1999, the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concluded an Agreement concerning those states' association with the implementation, application and development of the Schengen *acquis*.

On 26 October 2004, the Council of the European Union, the European Community and the Swiss Confederation concluded an Agreement concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*.

On 21 June 2006, a Protocol between the Council of the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement concluded by the Council of the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* was initialled. The Protocol was signed on 28 February 2008 and is expected to be concluded in 2009.

For efficiency, and to avoid the need to conduct separate negotiations, Liechtenstein has been associated with the negotiations on its participation in the Fund before the conclusion of the Protocol. This Agreement will not apply to Liechtenstein until the date when the Protocol is put into effect.

According to Article 11 of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'¹ (hereinafter 'the Decision') the states associated with the implementation, application and development of the Schengen *acquis* shall participate in the Fund in accordance with the provisions of the Decision. Moreover, arrangements shall be concluded specifying supplementary rules necessary for such participation, including provisions ensuring the protection of the Community's financial interests and the auditing power of the Court of Auditors.

The Agreement should provide for the application of rules in the jurisdiction of Norway, Iceland, Switzerland and Liechtenstein aiming at enabling the Commission to assume final responsibility for the implementation of the budget of the Fund in these states. Neither the Decision nor the above-mentioned Schengen association agreements provide for such rules. Following the authorization given by the Council to the Commission on 20 December 2007, negotiations were held with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein. The negotiations were finalised on 30 June 2009 when the draft Agreement was initialled.

Parties have agreed that this Agreement shall apply provisionally as from the day following that of its signature, without prejudice to constitutional requirements. An exception to this

¹ OJ L 144, 6.6.2007, p.22.

principle is made for the application of Article 6 on the enforceability of pecuniary obligations, which requires specific legislative action in the associated States.

The Member States have been informed and consulted in the Frontiers Working Party and the Working Party on the European Free Trade Association (EFTA) within the Council.

The legal basis of the Agreement is Article 62(2) in conjunction with Article 300 of the Treaty establishing the European Community.

This, and the related proposal constitute the legal instruments for signature and conclusion of the Agreement. The Council will decide by qualified majority. The European Parliament will have to be formally consulted on conclusion of the Agreement, in accordance with Article 300(3) of the EC Treaty.

2. OUTCOME OF THE NEGOTIATIONS

The Commission considers that the objectives set by the Council in its negotiating directives have been attained and that the draft Agreement is acceptable to the Community.

The final content of the draft Agreement can be summarised as follows:

Purpose and scope

As regards the rules aiming at enabling the Commission to assume final responsibility for the implementation of the budget of the Fund in these states, the Agreement deals with the following aspects of the financial management and control of the Fund: the principle of sound financial management, the principle on avoiding conflict of interest, the necessary measures resulting from the delegation of the implementation of EU funds to the associated States, the enforcement of pecuniary obligations, the protection of the financial interests of the Communities against fraud, on-the-spot checks and inspections, the Court of Auditors, public procurement.

Moreover, the Agreement sets out arrangements for the financial contributions from these states to the budget of the Fund. The Agreement lays down fixed amounts for these contributions for the period 2009-2013. The advantage of fixed amounts is that it facilitates the process of calculating the total amount of annual appropriations available for the Fund. The fixed amounts, however, are subject to a correction mechanism to be applied in the last year of the multiannual programme, bearing in mind the calculation methods based on GDP as laid down in the respective Schengen association agreements. Further, adjustment is made possible in case of a change in the total reference amount in Article 13(1) of the Decision or of changes to the annual appropriations foreseen in the text. Given the expected timing for the conclusion of this Agreement, the contributions for 2009 are only due, as exceptional contributions, in 2010. In the same vein, the allocations envisaged for 2009 for the associated countries, as communicated in July 2008, will be due, exceptionally, only in 2010. The timing for the payment of these contributions is also laid down.

Lastly, the Agreement sets out some specific arrangements for the associated States on the submission of programmes and reports, in the light of the delay in launching their participation in the Fund.

Declarations

One joint declaration is attached to the Agreement relating to the choice of Liechtenstein not to participate in the Fund, without prejudice to its obligations to contribute financially to the Fund, it having been designed to provide for burden sharing and to support financially the implementation of the Schengen acquis in the field of the external borders and visa policy.

Moreover, there is an exchange of declarations between Norway and the European Community on the application of the principle of direct enforceability of decisions by the European Community. This exchange of declarations is based on the one attached to the Schengen Association Agreement with Norway.

3. CONCLUSIONS

In the light of the above-mentioned results, the Commission proposes that the Council:

- decide that the Agreement be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;
- approve, after consultation of the European Parliament, the attached Agreement between the European Community, and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) According to Article 11 of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'³ the third countries associated with the implementation, application and development of the Schengen *acquis* shall participate in the Fund in accordance with its provisions and arrangements should be concluded to specify supplementary rules necessary for such participation, including provisions ensuring the protection of the Community's financial interests and the power of audit of the Court of Auditors.
- (2) Following the authorization given to the Commission on 19 December 2007, negotiations with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein have been concluded on 30 June 2009.
- (3) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it, or subject to application thereof. Since this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of

² OJ C ...

³ OJ L144,6.6.2007, p.22

the same Protocol, decide within a period of six months after the Council has adopted this Decision whether it will implement it in its national law or not.

- (4) This Decision constitutes a development of the provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis and the subsequent Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland⁴. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application thereof.
- (5) This Decision constitutes a development of the provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application thereof.
- (6) According to Council Decision .../.../EC of ../.. 2009, and pending its final conclusion at a later date, the Agreement has been signed on behalf of the European Community on 2009 and provisionally applied.
- (7) The Agreement should be concluded;

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 is hereby approved on behalf of the European Community.

The text of the Agreement and the related documents are attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to deposit on behalf of the European Community the instrument of approval provided for in Article 13(2) of the Agreement in order to express the consent of the Community to be bound.

Done at Brussels,

*For the Council
The President*

⁴ OJ L 395, 31.12.2004, p.70.

ANNEX

Agreement

between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community'

and

THE REPUBLIC OF ICELAND, hereinafter referred to as 'Iceland',

THE KINGDOM OF NORWAY, hereinafter referred to as 'Norway',

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland'

THE PRINCIPALITY OF LIECHTENSTEIN, hereinafter referred to as 'Liechtenstein',

Hereinafter referred to as associated States

Hereinafter referred to as 'the Parties'

HAVING REGARD to the Agreement concluded by the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those States with the implementation, application and development of the Schengen *acquis* (hereinafter referred to as the Association Agreement with Norway and Iceland),

HAVING REGARD to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (hereinafter referred to as the Association Agreement with Switzerland),

HAVING REGARD to the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the Council of the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (hereinafter referred to as the Association Protocol with Liechtenstein),

WHEREAS:

- (1) The European Community established by Decision No 574/2007/EC of the European Parliament and of the Council the External Borders Fund for the period 2007 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (hereinafter referred to as the Fund).
- (2) That Decision constitutes a development of the Schengen *acquis* within the meaning of the Association Agreement with Norway and Iceland, the Association Agreement with Switzerland and the Association Protocol with Liechtenstein.

- (3) Article 11 of that Decision provides that the third states associated with the implementation, application and development of the Schengen acquis participate in the Fund in accordance with its provisions and that arrangements shall be concluded to specify supplementary rules necessary for such participation, including provisions ensuring the protection of the Community's financial interests and the power of audit of the Court of Auditors.
- (4) The Fund constitutes a specific instrument in the context of the Schengen acquis designed to provide for burden sharing and support financially the implementation of the Schengen acquis in the field of external borders and visa policy in Member States.
- (5) To facilitate the calculation of the annual allocations to the States participating in the Fund and the multiannual programming exercise for the associated States, this Agreement defines the annual financial contributions from the associated States in fixed amounts which are subject to a correction mechanism to be applied in the last year of the multiannual programme,

HAVE AGREED AS FOLLOWS:

Article 1

Scope

This Agreement sets out the supplementary rules necessary for the participation in the Fund of the associated States in accordance with Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (hereinafter referred to as the Decision).

Article 2

Financial management and control

1. The associated States shall take the necessary measures to ensure the compliance with the provisions relevant for the financial management and control which are laid down in the Treaty establishing the European Community (hereinafter 'the EC Treaty') and in secondary Community law.
2. The provisions referred to in paragraph 1 are the following ones:
 - Articles 248, paragraphs 1 to 3, 256, 274 and 280, paragraphs 1 to 3 of the EC Treaty
 - Articles 27, 28a, 52, 53, point b, 72(2) and 95(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable

to the general budget of the European Communities⁵ (hereinafter referred to as the Financial Regulation);

- The corresponding provisions of 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 on the Financial Regulation applicable to the general budget of the European Communities⁶,
 - 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 irregularities⁷ 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).
 - The Parties may decide to amend this list by mutual agreement.
3. The associated States shall apply the provisions referred to in paragraph 2 in their territory in accordance with this Agreement.

Article 3

Respect for the principle of sound financial management

The appropriations under the Fund spent in the territory of the associated States shall be used in accordance with the principle of sound financial management.

Article 4

Respect for the principle on conflict of interest

All financial actors and any other person involved in budget implementation, management, audit or control acting in the territory of the associated States shall be prohibited from taking any action which may bring their own interests into conflict with those of the Communities.

⁵ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

⁶ OJ L 357, 31.12.2002, p.1. Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p. 13).

⁷ OJ L 292, 15.11.1996, p. 2.

Article 5

Obligations resulting from the delegation of the implementation

The associated States shall take all the legislative, regulatory and administrative or other measures necessary for protecting the Communities' interests in accordance with the obligations laid down in Article 53, point b, and 95(2) of the Financial Regulation.

Article 6

Enforcement

Decisions taken by the Commission which impose a pecuniary obligation on persons other than States shall be enforceable in the territory of the associated States.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the governments of the associated States shall respectively designate for this purpose and shall make known to the Commission.

When these formalities have been completed on application by the Commission, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice of the European Communities. However, the courts of the State concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

Article 7

Protection of the financial interests of the Communities against fraud

1. As set out in Article 280 of the EC Treaty, the associated States shall
 - (a) counter fraud and any other illegal activities affecting the financial interests of the Community through measures which shall act as a deterrent and be such as to afford effective protection;
 - (b) take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests; and
 - (c) coordinate their action aimed at protecting the financial interests of the Community with the Member States and the Commission.

2. To that end, the associated States shall adopt equivalent measures to those adopted by the Community in accordance with Article 280(4) of the EC Treaty which are in force at the time of signing this Agreement.

The Parties may decide by mutual agreement to adopt equivalent measures to any subsequent measures adopted by the Community in accordance with this Article.

Article 8

On-the spot checks and inspections by the Commission

Without prejudice to its rights under Articles 35 and 47 of the Decision, the Commission (OLAF) shall be authorised to carry out on-the spot checks and inspections in the territory of the associated countries in accordance with the terms and conditions laid down in 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 as regards the Fund.

The authorities of the associated States shall facilitate the on-the-spot checks and inspections which may, if the authorities so wish, be carried out jointly with them.

Article 9

Court of Auditors

As set out in Article 248(3) of the EC Treaty and Part One, Title VIII, chapter 1 of the Financial Regulation, the Court of Auditors as established by the EC Treaty shall notably have the possibility to perform audits on the spot on the premises of any body which manages revenue or expenditure on behalf of the Community in the territory of the associated States as regards the Fund including on the premises of any natural or legal person in receipt of payments from the budget.

Audits by the Court of Auditors in the associated States shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the associated States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The Court of Auditors shall have at least the same rights as the Commission as laid down in Articles 35 and 47 of the Decision and Article 8 of this Agreement.

Article 10

Public procurement

1. Norway, Iceland and Liechtenstein shall apply the provisions of their law on public procurement in accordance with Annex XVI to the EEA Agreement.
2. Switzerland shall apply its national law on public procurement in accordance with the provisions of the WTO Agreement on Government Procurement (GPA).

Switzerland shall provide the Commission with a description of its public procurement procedures together with the description of the management and control system.

Moreover, it shall provide information on the public procurement procedures applied in each final report on the implementation of the annual programme.

Article 11

Financial contributions and allocations

1. The associated States shall make annual payments to the budget of the Fund in accordance with the following tables:

in '000 Euro	2009
annual appropriations (EC budget)	185.500
Norway	5.100
Iceland	260
Switzerland	5.565

For 2009 payments shall be made on the basis of non-revisable fixed amounts⁸.

in '000 Euro	index⁹	2010	2011	2012	2013
foreseen annual appropriations (EC budget)	%	207.500	253.500	349.100	481.200
Norway	2.61	5.408	6.607	9.099	12.542
Iceland	0.04	79	96	132	183

⁸ Based on GDP of the year 2007

⁹ Index figures are rounded up

Switzerland	3.35	6.943	8.483	11.682	16.102
Liechtenstein	0.03	62	76	105	144

For 2010-2013 the payments shall be made on the basis of the index indicated in this table, subject to paragraph 4.

2. For 2011-2013, the payments shall be made by 15 February of the budget year concerned, following recovery orders issued by the Commission by 15 December of the preceding year.
3. The contributions foreseen for 2009 shall be due as exceptional contributions in 2010. They shall be paid along with the contributions due for 2010 by 15 February 2010. For Switzerland they shall be paid at the latest one month after the date of the signature of this Agreement.

The allocations foreseen for 2009 to the associated States concerned, established by the Commission in accordance with Articles 14 and 15 of the Decision, shall be due by the Community as exceptional allocations for 2010 as follows:

Norway: 1.611.049 euros

Iceland: 62.148 euros

Switzerland 2.282.112 euros

A single annual programme (2010) will cover both the 2010 allocations and these exceptional allocations.

As from 2010 the allocations foreseen for the associated States shall be calculated annually in accordance with Articles 14 and 15 of the Decision.

4. The Parties shall correct the contributions from each associated State for the budget years 2010, 2011, 2012 and 2013 on the basis of the latest available annual GDP figures on 1 May 2012. The correction(s) shall be made to the contribution for 2013.

For the purpose of the corrections, the GDP percentage of the associated State concerned shall be calculated as follows:

As regards Norway and Iceland, for each its GDP percentage shall be calculated in relation with the GDP of all participating countries, as laid down in Article 12(1) of the Association Agreement with Norway and Iceland;

As regards Switzerland, its GDP percentage shall be calculated in relation with the GDP of all participating countries, as laid down in Article 11 of the Association Agreement with Switzerland;

As regards Liechtenstein, its GDP percentage shall be calculated in relation with the GDP of all participating countries, as laid down in Article 3 of the Association Protocol with Liechtenstein.

5. The figures in the table in paragraph 1 shall be adjusted by the Parties in case of a change in the total reference amount in Article 13(1) of the Decision or changes in the actual annual appropriations to those foreseen in the table of paragraph 1 as decided by the budgetary authority of the EC in accordance with Point 37 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹⁰ in the context of the Multiannual Financial Framework of the European Union for the period 2007 -2013.

Any adjustment shall be proportional to the change in the total reference amount or annual appropriation(s) concerned and shall be applied to the budgetary year(s) affected by the change.

To that end, the Commission shall communicate by letter to the associated States the adjustments in the size of their financial contributions and the arrangements to be followed for the relevant payments or reimbursements.

6. The contribution of Liechtenstein shall only cover the years as from the day referred to in Article 13(6).
7. The Commission may use up to 300.000 euros of the payments made by the associated States each year to finance the administrative expenditure related to staff or external staff necessary for supporting the implementation by the associated States of the Decision and this Agreement.
8. For 2009 and 2010 the Commission shall make the Community budgetary commitments for the budget year concerned on the basis of the amounts allocated to the associated States by the Commission in accordance with Articles 14 and 15 of the Decision.

Article 12

Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Agreement shall be covered by professional secrecy and protected in the same way as similar information is protected by the provisions applicable to the Community institutions and by the laws of the associated States. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States or in the associated States whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Parties.

¹⁰ OJ C139, 14.6.2006, p.1

Article 13

Entry into force

1. The Secretary General of the Council of the European Union shall act as depositary of this Agreement.
2. The European Community, Norway, Iceland, Switzerland and Liechtenstein shall approve this Agreement in accordance with their own procedures.
3. The entry into force of this Agreement shall require approval by the European Community and by at least one other signatory.
4. This Agreement shall enter into force in relation to any party on the first day of the first month following the deposit of its instrument of approval with the depositary.
5. Except for Article 6, the European Community, Norway, Iceland and Switzerland shall apply this Agreement provisionally as from the day following that of its signature, without prejudice to constitutional requirements.
6. The European Community and Liechtenstein shall apply this Agreement provisionally as from the day when the provisions referred to in Article 2 of the Association Protocol with Liechtenstein are put into effect in accordance with Article 10 of that Protocol.

Article 14

Programming

1. The associated States shall inform the Commission of the authorities designated for the implementation of their multiannual programme and the annual programmes no later than one month after the signature of this Agreement.
2. The associated States shall submit their draft multiannual programme 2010-2013 to the Commission no later than three months after the signature of this Agreement.
3. The associated States shall submit their draft annual programme for 2010 to the Commission no later than five months after the signature of this Agreement.
4. The associated States shall submit a description of the management and control systems referred to in Article 34(2) of the Decision no later than three months after the signature of this Agreement.
5. The Commission shall approve the multiannual programme within three months of its formal submission and the annual programme 2010 within one month of its formal submission in accordance with the procedures set up in the Decision and provided that the Commission has satisfied itself in accordance with the procedure laid down in Article 34 of the Decision that the associated States have set up management and control systems that comply with Articles 26 to 32 of the Decision.

6. It is not necessary for the associated States to submit the evaluation report foreseen in Article 52(2)(a) of the Decision.

Article 15

Validity and termination

1. Either the Community or an associated State may terminate this Agreement by notifying the other Parties of its decision. The Agreement shall cease to apply three months after the date of such notification. Projects and activities in progress at the time of termination shall continue according to the conditions laid down in this Agreement. The Parties shall settle by mutual agreement any other consequences of termination.
2. As regards Norway and Iceland, this Agreement shall be terminated when the respective Association Agreement with Norway and Iceland is terminated in accordance with Articles 8, paragraph 4, 11, paragraph 3 or 16 of the Agreement.

As regards Switzerland, this Agreement shall be terminated when the Association Agreement with Switzerland is terminated in accordance with Articles 7, paragraph 4, 10, paragraph 3 or 17 of the Agreement.

As regards Liechtenstein, this Agreement shall be terminated when the Association Protocol with Liechtenstein is terminated in accordance with Articles 5, paragraph 4, 11, paragraph 1 or 11, paragraph 3 of that Protocol.

Article 14

Languages

This Agreement as well as the Declarations annexed thereto shall be drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish, Icelandic and Norwegian languages, each of those texts being equally authentic.

Joint Declaration by the European Community and Liechtenstein on the latter's participation in the External Borders Fund in application of Decision No 574/2007/EC

The European Community and Liechtenstein

- Having regard to the geographic situation of Liechtenstein in that it lacks external borders and a consular network which would be at the basis for developing a programme to implement the Fund and
- Recognising Liechtenstein's commitment to pursue the objectives of the Schengen Acquis as well as its solidarity with the States that apply the Schengen provisions on external borders

agree that Liechtenstein can choose not to participate in the implementation of the Fund, provided that it contributes financially to the Fund in accordance with Article 11 of the Agreement between the European Community and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013. Accordingly, Liechtenstein will contribute to the Fund but waive the right to receive allocations under the Fund in accordance with Articles 14 and 15 of Decision 574/2007/EC.

Should Liechtenstein at a later stage wish to participate, it shall inform the Commission well in advance and the necessary practical arrangements to ensure the application of Decision No 574/2007/EC, the implementing rules and this Agreement shall be laid down in an exchange of letters.

Declaration by the government of Norway on the direct enforceability of Decisions by the European Community Institutions regarding pecuniary obligations addressed to enterprises located in Norway

The attention of the Contracting Parties is drawn to the fact that the present constitution of Norway does not provide for direct enforceability of decisions by the European Community institutions regarding pecuniary obligations addressed to enterprises located in Norway. Norway acknowledges that such decisions should continue to be addressed directly to these enterprises and that they should fulfil their obligations in accordance with the present practice. The said constitutional limitations to direct enforceability of decisions by European Community institutions regarding pecuniary obligations do not apply to subsidiaries and assets in the territory of the Community belonging to enterprises located in Norway. If difficulties should arise, Norway is prepared to enter into consultations and work towards a mutually satisfactory solution.

Declaration by the European Community

The Commission will keep the situation referred to in Norway's unilateral declaration under constant review. It may at any time initiate consultations with Norway with a view to finding satisfactory solutions to such problems.