

COMMON POSITION (EC) No 14/2000**adopted by the Council on 16 December 1999****with a view to adopting Regulation (EC) No .../2000 of the European Parliament and of the Council of ... on measures to promote the conservation and sustainable management of tropical forests and other forests in developing countries**

(2000/C 64/03)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 175 and 179 thereof,

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

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) Forests have a variety of functions and values for mankind and can contribute to the achievement of Community development and environment objectives such as the campaign against poverty, sustainable economic and social development and the protection of the environment.
- (2) In numerous resolutions, the European Parliament has expressed its concern over the destruction of forests and the consequences for forest-dependent people, in particular indigenous peoples.
- (3) In reply to the request by the European Parliament in its resolution on the European Union's forestry strategy⁽⁴⁾ the Commission has adopted a Communication 'Forests and development: the EC approach' setting out a strategy for Community action on the promotion of the conservation and sustainable management of forests in developing countries.

- (4) The objectives of this strategy are to be pursued in the context of the broader Community aim to promote the conservation and sustainable use of forests, in whatever geographical area or climate zone they may be situated.
- (5) The Community and its Member States are signatories to the Rio Declaration and the Agenda 21 action programme and are committed to the United Nations General Assembly Special Session (Ungass) resolution 'Programme for the further implementation of Agenda 21'.
- (6) The Community and its Member States are members of the World Trade Organisation and parties to multilateral environment agreements, notably the Convention on biological diversity, the Framework Convention on climate change and the Convention to combat desertification; they are thus committed to take into account the common but differentiated responsibilities of developed parties and developing parties on these subjects.
- (7) In its 1997 Special Session, the United Nations General Assembly has endorsed the proposals for action formulated in the framework of the intergovernmental panel on forests (IPF); the Community and its Member States are fully committed to the implementation of these proposals.
- (8) Council Regulation (EC) No 3062/95 of 20 December 1995 on operations to promote tropical forests⁽⁵⁾ set out the framework for Community assistance in this area; Regulation (EC) No 3062/95 was applicable until 31 December 1999; the experience acquired during the implementation of Regulation (EC) No 3062/95 should be reflected in this Regulation.
- (9) In its resolution of 30 November 1998, the Council acknowledges the role that indigenous peoples play in managing the environment, in particular with regard to the conservation and sustainable use of forests in developing countries.

⁽¹⁾ OJ C 87, 29.3.1999, p. 97.

⁽²⁾ OJ C 258, 10.9.1999, p. 13.

⁽³⁾ Opinion of the European Parliament of 5 May 1999 (OJ C 279, 1.10.1999, p. 184), Council common position of 16 December 1999 and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ C 55, 24.2.1997, p. 22.

⁽⁵⁾ OJ L 327, 30.12.1995, p. 9.

- (10) The financial instruments available to the Community for supporting the conservation and sustainable development of forests should be supplemented.
- (11) Provision should be made for funding the activities referred to in this Regulation.
- (12) This Regulation lays down, for the entire duration of the programme it establishes, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure⁽¹⁾, for the budgetary authority during the annual budgetary procedure.
- (13) Detailed rules for implementation should be laid down, in particular the form of action, the cooperation partners and the decision-making procedure.
- (14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementation powers conferred on the Commission⁽²⁾,

the forest ecosystem, while securing as far as possible their current and future value for mankind and in particular for forest-dependent people,

- 'sustainable forest management' means the management and use of forests and wooded lands in a way, and at a rate, that maintains their biological diversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, without causing any damage to other ecosystems,
- 'sustainable development' means the improvement of the standard of living and welfare of the relevant populations within the limits of the capacity to the ecosystems by maintaining natural assets and their biological diversity for the benefit of present and future generations,
- 'forest-dependent people' means the indigenous peoples who inhabit the forest or claim it as their traditional home and any people who live in or near the forest and have traditionally been directly and to a large extent dependent on the forest.

Article 3

HAVE ADOPTED THIS REGULATION:

Article 1

The Community shall provide financial assistance and appropriate expertise to promote the conservation and sustainable management of tropical forests and other forests in developing countries, so as to meet the economic, social and environmental demands placed on forests at local, national and global levels.

The assistance and expertise provided under this Regulation shall complement and reinforce that provided through other instruments of development cooperation.

Article 2

For the purposes of this Regulation:

- 'tropical forests and other forests', hereinafter referred to as 'forests', means natural and semi-natural forest ecosystems, whether primary or secondary, whether closed or open forests, in dry, semi-arid and humid areas,
- 'conservation' means all activities to preserve and rehabilitate forests, in particular activities designed to protect or restore the biological diversity and ecological functions of

Activities to be carried out under this Regulation shall aim at:

- raising the status of forests in national policies and integrating forest policies based on sustainable forest management in development planning,
- promoting the production and use of wood and non-wood forest products from sustainably managed resources,
- contributing to the adequate valuation of forest resources and services.

Article 4

1. The activities to be carried out under this Regulation shall address in particular:

- (a) development of appropriate national and international forest policy frameworks based on realistic valuation of forests, which include land use planning, equitable trade in sustainably produced forest products, legal and fiscal measures, institution building, support to the private sector and support to self-development of forest-dependent people to shape their own social, economic and cultural development. These shall take into account other sectoral policies which have an impact on forests and the interests and customary rights of forest-dependent people;

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

- (b) conservation and restoration of forests which are considered to be of importance due to their high ecological value, in particular their value for the preservation of biodiversity, or due to their local and global impacts, such as the protection of hydrographic basins, the prevention of soil erosion, or of climate change;
 - sustainability of any proposed activity, social, economic as well as environmental,
 - proper coordination and information flows between the Commission and the Member States in order to ensure coherence of activities in the regions concerned,
 - (c) sustainable forest management and utilisation to provide economic, social and environmental benefits and including, *inter alia*, forest certification — taking account of the different management conditions for small and large forest areas — and environmentally sound harvesting of both wood and non-wood forest products and natural and assisted forest regeneration;
 - gender-specific roles, knowledge, perspectives and contributions of women/girls and men/boys in the management and use of forests.
 - (d) economic viability of sustainable forest management through more efficient utilisation of forest products and technical improvements of downstream activities related to the forest sector such as small and medium-scale processing and marketing of wood and non-wood forest products, the sustainable use of wood as an energy source and the promotion of alternatives to agricultural practices based on forest clearing;
 - the needs of each country as reflected in regional and national development and environment policies relating to forests, considering national forest plans and local needs, and
 - Community cooperation objectives as established by the Commissions in jointly agreed country strategy papers.
 - (e) knowledge and information generation and management concerning forest services and products, in order to provide a sound scientific basis for the activities listed under (a) to (d).
2. Activities eligible for financing shall include pilot projects in the field, innovative programmes, studies and research, the results of which will, in addition to their specific objectives, contribute to the development, adjustment and better implementation of forestry policies of the Community and of partner countries.
3. Particular attention shall be given to:
- encouraging environmentally and socially responsible private entrepreneurship in the forest products processing and marketing chain, in the context of agreed policies for private sector development and taking into account existing social systems and Community-based economic activities,
 - encouraging the direct participation of cooperation partners in the developing countries, and at the same time ensuring an appropriate scale of interventions and adaptation of administrative procedures to local management capacity,
 - participation of forest-dependent people and local communities in activities carried out under this Regulation, taking into account their development priorities and economic, social and cultural rights, *inter alia*, through capacity building, in order to ensure their full participation in all decision-making processes,
4. Priorities shall be determined in accordance with:
- the needs of each country as reflected in regional and national development and environment policies relating to forests, considering national forest plans and local needs, and
 - Community cooperation objectives as established by the Commissions in jointly agreed country strategy papers.
5. Activities carried out under this Regulation shall be preceded by environmental and sociocultural impact assessments, including an assessment of the congruence of the envisaged operations with the development priorities of the forest-dependent people and local communities concerned, as well as analysis of financial and economic feasibility. These activities shall also be preceded by a transparent exchange of information with forest-dependent people and local communities and be conditional on their support.
6. Activities carried out under this Regulation shall be coordinated with, and may provide support for, national and international programmes and activities on the conservation and sustainable management of forests, in particular the proposals for action formulated by the intergovernmental panel for forests/intergovernmental forum for forests (IPF/IFF) process.
7. When appropriate, activities shall be carried out within the framework of regional organisations and international programmes of cooperation and shall be supportive to the development of a global policy on the conservation and sustainable management of forests.

Article 5

Cooperation partners which may receive assistance under this Regulation shall include international organisations, States, regions and regional bodies, decentralised departments, public agencies, private operators and industries, cooperatives, local communities, non-governmental organisations and associations representing local people, in particular forest-dependent people.

Article 6

1. Community financing may cover studies, technical assistance, education, training or other services, supplies and works, small grant funds as well as appraisals, audits and evaluation and monitoring missions. It may cover, within the limit established annually by the budgetary authority, technical and administrative assistance costs, to the benefit of the Commission and the beneficiary, related to operations other than the permanent tasks of the public administration, linked to the identification, preparation, management, monitoring, auditing and control of programmes or projects.

Community financing may cover both investment, linked to a specific activity, with the exception of the purchase of real estate, and recurrent expenditure (including administrative, maintenance and operating expenditure).

With the exception of training, education and research programmes, recurrent expenditure may normally be covered only during the start-up phase and on a gradually decreasing basis.

2. A contribution from the cooperation partners defined in Article 5 shall be sought for each cooperation activity. Their contribution shall be requested according to their means and the nature of the activity concerned.

3. Opportunities may be sought for co-financing with other donors, especially with Member States and the international organisations concerned. In this respect, coordination with the measures taken by other donors shall be sought.

4. The necessary measures shall be taken to emphasise the Community character of the assistance provided under this Regulation.

5. In order to attain the objectives of consistency and complementary laid down in the Treaty and with the aim of guaranteeing optimum efficiency for all these activities, the Commission shall, in liaison with Member States, take all coordination measures necessary, including in particular:

- (a) the systematic exchange and analysis of information on operations financed or being considered for financing by the Community and the Member States;
- (b) on-the-spot coordination of these activities by means of regular meetings and of information between representatives of the Commission and of the Member States in the beneficiary countries.

6. In order to obtain the greatest possible impact of the activities at global, national and local levels, the Commission, in liaison with the Member States, will take any initiative necessary for ensuring proper coordination and close collaboration, especially regarding the exchange of information, with the cooperation partners, donors and other international organisations involved, in particular those forming part of the United Nations system.

Article 7

Financial assistance under this Regulation shall take the form of grants.

Article 8

The financial framework for implementing this Regulation during the period from 2000 to 2006 shall be EUR 63 million.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 9

1. The Commission shall be responsible for appraising, taking decisions to finance and administering activities covered by this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation applicable to the general budget of the European Union.

2. Each year, the Commission shall adopt, in accordance with the procedure laid down in Article 10(2), strategic guidelines and priorities for implementing the activities to be carried out in the following year.

3. Decisions relating to grants of EUR 2 million or more for individual activities financed under this Regulation shall be adopted by the Commission in accordance with the procedure laid down in Article 10(2).

4. The Commission shall inform the Committee referred to in Article 10(1) succinctly of any financing decisions it intends to take with regard to grants of less than EUR 2 million for activities covered by this Regulation. The information shall be made available not later than one week before the decision is taken.

5. The Commission shall be authorised to approve any extra commitments needed for covering any expected or real cost overruns or additional requirements in connection with the activities, provided that the overrun or additional requirement is less than or equal to 20 % of the initial commitment fixed by the financing decision.

6. All financing agreements or contracts concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with the usual procedures laid down by the Commission under the rules in force, in particular those of the Financial Regulation applicable to the general budget of the European Union.

7. Where operations are the subject of financing agreements between the Community and the recipient country, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the Community.

8. Participation in invitations to tender and the award of contracts shall be open on equal terms to all natural and legal persons of the Member States and of the recipient country. It may be extended to other developing countries and, in exceptional cases which are fully justified, to other third countries.

9. Supplies shall originate in the Member States, the recipient country or other developing countries. In exceptional cases, where circumstances warrant, supplies may originate in other countries.

10. Particular attention will be given to:

- the pursuit of cost effectiveness and sustainable impact of activities,
- the clear definition and monitoring of objectives and indicators of achievement for all activities.

Article 10

1. The Commission shall be assisted by the appropriate geographically-determined committee responsible for development, hereinafter referred to as the 'Committee'.

2. Where reference is made to this paragraph, the management procedure laid down in Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

3. The Committee shall adopt its rules of procedure.

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

Done at ...

For the European Parliament

The President

Article 11

1. By 1 September after each budget year, the Commission shall submit an annual report to the European Parliament and the Council, summarising the activities financed in the course of that year and evaluating the implementation of this Regulation over that period.

The summary shall in particular provide information about the number and nature of the activities financed, the cooperation partners and the countries concerned. The report shall also indicate the number of external evaluations carried out regarding specific activities.

2. The Commission shall regularly evaluate activities financed by the Community with a view to establishing whether the objectives aimed at by those activities have been achieved and to providing guidelines for improving the effectiveness of future activities. The evaluations will take into account the views of the beneficiaries, including forest-dependent people and local communities. The Commission shall submit to the Committee referred to in Article 10(1) a summary of the evaluations made. The evaluation reports shall be available to any Member State, to the European Parliament and to other interested parties.

3. The Commission shall inform the Member States, at the latest one month after its decision, of the activities that have been approved, stating their cost and nature, the country concerned and the cooperation partners.

4. A financing guide specifying the guidelines and criteria applicable to the selection of activities shall be published and communicated to the interested parties by the Commission services, including Commission Delegations in the countries concerned.

Article 12

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

It shall apply until 31 December 2006.

2. Four years after the entry into force of this Regulation, the Commission shall submit to the European Parliament and to the Council an overall evaluation of the activities financed by the Community under this Regulation, in the context of overall Community development cooperation, together with proposals concerning the future of this Regulation, including its possible modification or termination.

For the Council

The President

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 3 February 1999, the Commission submitted to the Council a proposal for a Regulation, based on Articles 175 and 179 of the EC Treaty (ex Articles 130s and 130w), laying down the objectives and procedures for activities under the current budget item B7-6 2 0 1 'Tropical forests'.
2. The European Parliament (after its first reading) delivered its opinion on 5 May 1999.
3. The Economic and Social Committee and the Committee of the Regions have been asked to deliver their opinions. The Economic and Social Committee delivered it on 7 July 1999. The Committee of the Regions informed the Council by letter of 25 October 1999 that it does not intend to issue an opinion on the proposed Regulation.
4. In the light of the European Parliament's opinion and the Commission's position on it, the Council working group has agreed upon a draft common position taking into account certain changes pursuant to the entry into force of the Amsterdam Treaty.
5. On 16 December 1999 the Council adopted its common position in accordance with Article 251 of the EC Treaty.

II. PURPOSE OF THE PROPOSAL

The objective of this proposal is to ensure the continuation of activities implemented under Council Regulation (EC) No 3062/95 of 20 December 1995 after its expiry on 31 December 1999. The proposal takes the form of a multiannual programme which aims at promoting measures at international level to contribute to the conservation and sustainable management of tropical and other forests in developing countries.

III. ANALYSIS OF THE COMMON POSITION

1. General remarks

- 1.1. The Council has been able to accept a substantial number of the amendments proposed by the European Parliament (see point 2.3 below). Where the Commission and the Council were unable to accept the Parliament's amendments or parts of them it was usually for one or several of the following reasons:
 - procedural or administrative proposals that were not in accordance with standard formulations and practices of similar regulations, including the Financial Regulation,
 - quotes from legal acts or policy documents which were considered to be redundant and to unnecessarily lengthen the text,
 - amendments considered to be unclear or subjective, or which repeated ideas expressed elsewhere in the Regulation or in other accepted amendments,

- amendments which, if accepted, would reduce the focus and hence the effectiveness of the activities contemplated under the Regulation,
- amendments concerning management issues which are of the competence of the Commission.

1.2. In its common position, the Council has approved the essence and wording of the Commission's proposal with the exceptions referred to under point 2.2 (specific comments). In Article 9(2) of the draft common position, the Council thought desirable to integrate a new task for the joint Committees' meeting (under the Comitology procedure set out in Article 10) which aims at the approval of annual strategic guidelines and priorities to underline the focus on a strategic approach.

2. **Specific comments**

2.1. **Legal basis**

The legal basis put forward by the Commission in its proposal, namely Articles 175 and 179 of the EC Treaty (ex Articles 130s and 130w), is considered by the Council in its common position as being the most appropriate in view of the aim and contents of the proposal.

2.2. ***Amendments made by the Council to the Commission proposal***

2.2.1. *Duration of the programme*

As far as duration of the Regulation is concerned, the Council has opted for a seven-year period (2000 to 2006) which corresponds to the period for which financial perspectives have been fixed. The Commission's evaluation report will be due four years after the entering into force of the Regulation and shall contain suggestions concerning the future of the Regulation.

2.2.2. *Funding*

As a consequence of the seven-year programme, the financial reference amount has been fixed at EUR 63 million, which results from the 2000 draft budget appropriations of annual EUR 10 million. This amount has further been reduced by 10 % to take account of the July Decision of the Budget Council on category 4 expenditures. By the introduction of this indicative amount the Council has partially taken into consideration the European Parliament's Amendment 34.

2.2.3. *Comitology (Article 10)*

The Council has changed the Committee procedure whereby the powers of the Committee would be exercised under the management Committee procedure, as set out in the Council Decision of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission. The Council considers that such a Committee procedure will ensure maximum coordination with Member States activities and thus contribute to necessary complementarity.

In addition, an annual Commission document on strategic guidelines and priorities will be submitted to the appropriate geographical Committee which will approve the document in accordance with the management Committee procedure.

2.3. *European Parliament amendments*

2.3.1. *Parliament amendments adopted by the Council*

The Council adopted in full the 18 amendments adopted by the Commission and in essence the first part of Amendment 34 proposed by the Parliament.

2.3.2. *Parliament amendments not adopted by the Council*

Apart from the amendments not adopted by the Commission the Council could not accept other amendments for the reason that it was not possible to reach the requisite unanimity.

IV. **CONCLUSIONS**

The Council considers that its common position constitutes a balanced text to ensure the continuation of activities implemented under Council Regulation (EC) No 3062/95 of 20 December 1995 after its expiry on 31 December 1999. It reflects the need to meet the Community's commitments to the conservation and management of tropical forests and forests in the context of sustainable development.
