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(Information)

COUNCIL

COMMON POSITION (EC) No 10/2006

adopted by the Council on 27 June 2006

with a view to adopting Regulation (EC) No …/2006 of the European Parliament and of the Council of … concerning the Financial Instrument for the Environment (LIFE+)

(2006/C 238 E/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Having regard to the opinion of the Committee of the Regions [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Environmental protection is one of the key objectives set out in the declarations on the guiding principles for sustainable development that the European Council has adopted. It is a priority for Community co-financing and should be funded primarily through the Community's horizontal financial instruments, including the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development, the Competitiveness and Innovation Framework Programme, the European Fisheries Fund and the seventh Research Framework Programme.

(2) These Community financial instruments do not cover all environmental priorities. There is therefore a need for a Financial Instrument for the Environment (LIFE+) to provide specific support for developing and implementing Community environmental policy and legislation, in particular the objectives of the Sixth Community Environment Action Programme (6th EAP) laid down by Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 [4].

(3) Support should be provided through grant agreements and public procurement contracts in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [5].

(4) Measures and projects financed under LIFE+ should meet eligibility criteria to secure the best possible use of Community funds. In particular, for that part of the budget subject to delegated management, measures and projects should meet additional eligibility criteria to ensure European added value and to avoid financing recurring activities, such as day-to-day operations.

(5) In the area of nature and biodiversity, the implementation of Community policy and legislation itself provides a framework for European added value. Best-practice or demonstration measures and projects, including those relating to the management and designation of Natura 2000 sites in accordance with Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora [6] and Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds [7], should be eligible for

(1) OJ C 255, 14.10.2005, p. 52.
(2) OJ C 231, 20.9.2005, p. 72.
(3) Opinion of the European Parliament of 7 July 2005 (not yet published in the Official Journal), Council common position of 27 June 2006 and position of the European Parliament of … (not yet published in the Official Journal).
(4) OJ L 242, 10.9.2002, p. 1.
(5) OJ L 248, 16.9.2002, p. 1.
(6) OJ L 206, 22.7.1992, p. 7. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).
(7) OJ L 103, 25.4.1979, p. 1. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

Community financing under LIFE+, except where they are eligible for funding under other Community financial instruments.

(6) Innovative or demonstration measures and projects relating to Community environmental objectives, including the development or dissemination of best practice techniques, know-how or technologies, as well as measures and projects for awareness-raising campaigns and special training for agents involved in forest fire prevention interventions should be eligible for Community financing under LIFE+, except where they are eligible for funding under other Community financial instruments.

(7) Measures and projects for the development and implementation of Community objectives relating to the broad-based, harmonised, comprehensive and long-term monitoring of forests and environmental interactions should be eligible for Community financing under LIFE+, except where they are eligible for funding under other Community financial instruments.

(8) The challenge of effective policy development and implementation under the 6th EAP can be met only through support for best-practice or demonstration measures and projects for the development or implementation of Community environmental policy; demonstration of innovative policy approaches, technologies, methods and instruments; consolidating the knowledge base; building implementation capacity; fostering good governance, promoting networking, mutual learning and the exchange of best practice; and improved dissemination of information, awareness-raising and communication. Financial support under this Regulation should therefore contribute to the development, implementation, monitoring and evaluation of environmental policy and legislation, as well as its communication and dissemination throughout the Community.

(9) LIFE+ should have three components: LIFE+ Nature and Biodiversity, LIFE+ Environment Policy and Governance, and LIFE+ Information and Communication. It should be possible for measures and projects financed by LIFE+ to contribute to the achievement of the specific objectives of more than one of these three components and to involve the participation of more than one Member State, as well as to contribute to the development of strategic approaches to meeting environmental objectives.

(10) In order to carry out its role in the initiation of environment policy development and implementation, the Commission should use resources from LIFE+ to complete studies and evaluations, to undertake services with a view to the implementation and integration of environment policy and legislation, to hold meetings, seminars and workshops with experts and stakeholders, to develop and maintain networks and to develop and maintain computer systems. In addition, the Commission should use the centrally managed part of the LIFE+ budget to undertake information, publication and dissemination activities, including events, exhibitions and similar awareness-raising measures, for the preparation and production costs of audio-visual materials, and to obtain technical and/or administrative assistance relating to the identification, preparation, management, monitoring, audit and supervision of programmes and projects.

(11) Non-governmental organisations (NGOs) contribute to the development and implementation of Community environmental policy and legislation. It is therefore appropriate for the centrally managed part of the LIFE+ budget to support the operations of a number of appropriately qualified environmental NGOs through the competitive and transparent awarding of annual operating grants. Such NGOs would need to be independent and non-profit-making and to pursue activities in at least three European countries, either alone or in the form of an association.

(12) The experience of current and past instruments has highlighted the need to plan and programme on a multiannual basis and to concentrate efforts to promote environmental protection by prioritising and targeting the areas of activity able to benefit from Community co-financing.

(13) Member States should prepare national annual work programmes, different both from plans and programmes which are prepared for a number of sectors and which set a framework for future development consent and from plans and programmes which have been determined to require assessment pursuant to Directive 92/43/EEC, and those work programmes should not be considered plans or programmes subject to Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment [1].

(14) Environmental protection requirements should be integrated into the definition and implementation of Community policies and activities, including financial instruments. LIFE+ should therefore be complementary to other Community financial instruments and the Commission and Member States should ensure such complementarity at Community, national, regional and local level.

(15) In line with the conclusions of the Luxembourg European Council (December 1997) and of the Thessaloniki European Council (June 2003), candidate countries and the Western Balkan countries in the Stabilisation and Association Process should be eligible to participate in Community programmes, in accordance with the conditions established in the relevant bilateral agreements concluded with these countries.

[1] OJ L 197, 21.7.2001, p. 30.

(16) It is necessary to consolidate a number of existing environmental instruments and to simplify programming and management by creating a single, streamlined financial instrument for the environment.

(17) It is also necessary to ensure a smooth transition and to continue to monitor, audit and qualitatively assess the activities financed under current programmes following their expiry.

(18) This Regulation lays down, for the entire duration of the programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [1], for the budgetary authority during the annual budgetary procedure.

(19) The general objective of LIFE+ is to contribute to the implementation, updating and development of Community environmental policy and legislation and, in particular, to support the implementation of the 6th EAP. By working together through Community instruments to improve delivery at national or local levels, to achieve Community goals or to provide for Community-wide exchanges of information, Member States can achieve European added value. Since this objective of LIFE+ cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objective.

(20) The implementing measures that this Regulation empowers the Commission to adopt are management measures relating to the implementation of a programme with substantial budgetary implications within the meaning of Article 2(a) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [2]. Certain implementing measures should therefore be adopted in accordance with the management procedure provided for in Article 4 of that Decision. However, this Regulation establishes a general framework and will apply for seven years. Community and national priorities are likely to evolve significantly during this period. This Regulation also defers many essential decisions to multi-annual strategic programmes and national annual work programmes. These issues are of critical concern to individual Member States and of crucial importance for their national environmental policy. It is therefore more appropriate for certain other measures to be adopted in accordance with the regulatory procedure provided for in Article 5 of Decision 1999/468/EC, in order to give Member States the option of bringing proposed measures before the Council for consideration. The regulatory procedure is also appropriate for the adoption of amendments to the Annexes to this Regulation, which specify essential provisions, in particular the measures eligible for funding, and for the laying down of implementing rules other than the technical measures explicitly mentioned in this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

1. This Regulation establishes a financial instrument for the environment ('LIFE+').

2. The general objective of LIFE+ shall be to contribute to the implementation, updating and development of Community environmental policy and legislation, including the integration of the environment into other policies, thereby contributing to sustainable development.

In particular, LIFE+ shall support the implementation of the 6th EAP, including the thematic strategies, and finance measures and projects with European added value in Member States.

Article 2

Definitions

For the purpose of this Regulation:

1) '6th EAP' means the Sixth Community Environment Action Programme laid down by Decision No 1600/2002/EC;

2) 'Financial Regulation' means Regulation (EC, Euratom) No 1605/2002;

3) 'national agencies' mean national public-sector bodies, or bodies governed by private law with a public-service mission, to which budget implementation tasks have been entrusted in accordance with Article 7(2).

Article 3

Eligibility criteria

1. Measures and projects financed by LIFE+ shall support the achievement of the general objective set out in Article 1(2). Where possible, measures and projects financed by LIFE+ shall promote synergies between different priorities under the 6th EAP, and integration.

[1] OJ C …
[2] OJ L 184, 17.7.1999, p. 23.

2. Measures envisaged in the multi-annual strategic programmes drawn up in accordance with Article 6(1), national annual work programmes adopted in accordance with Article 6(5) and projects implemented pursuant to those programmes shall satisfy the following criteria:

(a) being of Community interest by making a significant contribution to the achievement of the general objective of LIFE+ set out in Article 1(2); and

(b) being technically and financially coherent and feasible and providing value for money.

3. In addition, to ensure European added value and avoid financing recurring activities, measures envisaged in national annual work programmes and projects implemented pursuant to those programmes shall satisfy at least one of the following criteria:

(a) being best practice measures and projects, or demonstration measures and projects, for the implementation of Directive 79/409/EEC or Directive 92/43/EEC;

(b) being innovative measures and projects, or demonstration measures and projects, relating to Community environmental objectives, including the development or dissemination of best practice techniques, know-how or technologies;

(c) being awareness-raising campaigns and special training for agents involved in forest fire prevention;

(d) being measures and projects for the development and implementation of Community objectives relating to the broad-based, harmonised, comprehensive and long-term monitoring of forests and environmental interactions.

Article 4

Specific objectives

1. LIFE+ shall consist of three components:

— LIFE+ Nature and Biodiversity,

— LIFE+ Environment Policy and Governance,

— LIFE+ Information and Communication.

2. The specific objectives of LIFE+ Nature and Biodiversity shall be:

(a) to contribute to the implementation of Community policy and legislation on nature and biodiversity, in particular Directives 79/409/EEC and 92/43/EEC, including at local and regional level, and to support the further development and implementation of the Natura 2000 network, including coastal and marine habitats and species;

(b) to contribute to the consolidation of the knowledge base for the development, assessment, monitoring and evaluation of Community nature and biodiversity policy and legislation;

(c) to support the design and implementation of policy approaches and instruments for the monitoring and assessment of nature and biodiversity and the factors, pressures and responses that impact on them, in particular in relation to the achievement of the target of halting biodiversity loss within the Community by 2010;

(d) to provide support for better environmental governance, by broadening stakeholder involvement, including that of NGOs, in consultations on, and the implementation of, nature and biodiversity policy and legislation.

3. The specific objectives of LIFE+ Environment Policy and Governance shall be, in relation to the objectives of the 6th EAP, including for the priority areas of climate change, environment and health and quality of life, and natural resources and wastes:

(a) to contribute to the development and demonstration of innovative policy approaches, technologies, methods and instruments;

(b) to contribute to consolidating the knowledge base for the development, assessment, monitoring and evaluation of environmental policy and legislation;

(c) to support the design and implementation of approaches to monitoring and assessment of the state of the environment and the factors, pressures and responses that impact on it;

(d) to facilitate the implementation of Community environment policy, with particular emphasis on implementation at local and regional level;

(e) to provide support for better environmental governance by broadening stakeholder involvement, including that of NGOs, in policy consultation and implementation.

4. The specific objectives of LIFE+ Information and Communication shall be:

(a) to disseminate information and raise awareness on environmental issues, including forest fire prevention;

(b) to provide support for accompanying measures, such as information, communication actions and campaigns, conferences and training, including training on forest fire prevention.

5. Annex I contains the list of eligible measures.

Article 5

Types of intervention

1. Community funding may take the following legal forms:

(a) grant agreements;

(b) public procurement contracts.

2. Community grants may be provided in specific forms, such as framework partnership agreements, participation in financial mechanisms and funds, or co-funding of operating or action grants. Operating grants to bodies pursuing objectives of general European interest shall not be subject to the degressivity provisions of the Financial Regulation.

3. For action grants, the maximum rate of co-financing shall be 50 % of eligible costs. However, by way of exception, the maximum co-financing rate for LIFE+ Nature and Biodiversity may be up to 75 % of eligible costs in the case of measures and projects concerning priority habitats or species for the implementation of Directive 79/409/EEC or Directive 92/43/EEC, when this is necessary to achieve the conservation objective.

4. In the case of public procurement contracts, Community funds may cover the costs of purchase of services and goods. These costs may include expenditure on information and communication, preparation, implementation, monitoring, checking and evaluation of projects, policies, programmes and legislation.

5. If a Member State so decides, staff costs shall be eligible for Community co-financing on condition that:

(a) in the case of national agencies, such Community funding represents no more than 2 % of the Community contribution to the Member State's national annual work programme for the year concerned. The staff in question must be carrying out additional tasks that national administrations did not previously fulfil in connection with the implementation of Community programmes;

(b) civil servants' salary costs may be funded only to the extent that they relate to the cost of project implementation activities that the relevant public authority would not have carried out had the project concerned not been undertaken. The staff in question must be specifically seconded to a project and they must represent an additional cost with respect to existing permanent staff.

Article 6

Programming

1. The Commission shall draw up a first multi-annual strategic programme for 2007 to 2010 and a second multi-annual strategic programme for 2011 to 2013. These programmes shall define the principal objectives, priority areas of action, type of measures and expected results for Community funding in relation to the objectives and criteria set out in Articles 1, 3 and 4. They shall include allocations between Member States and indicate those parts of the budget subject to central direct management and those subject to delegated management in accordance with Article 7(2).

At least 80 % of the budget shall be subject to delegated management.

2. Member States' allocations for the part of the budget subject to delegated management shall be without prejudice to the annual budgetary procedure provided for in Article 11(3). The Commission shall base these allocations on the following criteria:

(a) population:

(i) the total population of each Member State. A weighting of 50 % shall be applied to this criterion; and

(ii) the population density of each Member State, up to a limit of twice the EU's average population density. A weighting of 5 % shall be applied to this criterion;

(b) nature and biodiversity:

(i) the total area of sites of Community importance for each Member State, expressed as a proportion of the total area of sites of Community importance. A weighting of 25 % shall be applied to this criterion; and

(ii) the proportion of a Member State's territory covered by sites of Community importance in relation to the proportion of Community territory covered by sites of Community importance. A weighting of 20 % shall be applied to this criterion.

As soon as relevant data are available for all Member States, the Commission shall make the calculations for nature and biodiversity on the basis of both sites of Community importance and special protection areas, while avoiding double counting.

In addition, the Commission may make additional allocations to land-locked Member States. The total amount of such allocations shall not exceed 3 % of the total delegated budget.

However, the Commission shall ensure that no Member State's allocation is less than an appropriate minimum allocation of between EUR 1 and 3 million per year, taking into account population density, environmental expenditure, environmental need and absorption capacity.

3. Within the framework of the multi-annual strategic programmes referred to in paragraph 1, Member States shall, for the part of the budget subject to delegation, submit draft national annual work programmes to the Commission for each year in the periods 2007 to 2010 and 2011 to 2013. These shall, as a minimum and for each year:

(a) identify priority areas taking account of identified long-term needs;

(b) outline specific national objectives;

(c) describe the measures to be financed and how they meet the eligibility criteria set out in Article 3;

(d) provide cost estimates; and

(e) describe the proposed monitoring framework.

Member States may include transnational measures in their draft national annual work programmes.

4. The Commission shall consult Member States on the draft multi-annual strategic programmes within the Committee referred to in Article 14(1). The programmes shall be adopted in accordance with Article 15(1)(a). For the multi-annual strategic programme for 2007 to 2010, adoption shall take place as soon as possible, and no later than three months after the entry into force of this Regulation.

5. The Commission shall consult Member States bilaterally on the draft national annual work programmes, with a view to the adoption of national annual work programmes in accordance with Article 15(1)(b). Member States shall submit draft national annual work programmes for 2007 to the Commission as soon as possible, and no later than three months after the adoption of the first multi-annual strategic programme. They shall, as necessary, submit national annual work programmes for subsequent years, and updates of drafts already submitted, pursuant to the timetable laid down in accordance with Article 15(2)(b).

Member States may, if they so wish, submit draft national annual work programmes for some or all of the years covered by this Regulation at the same time.

6. Member States shall ensure that national agencies implement national annual work programmes adopted in accordance with Article 15(1)(b). National agencies shall invite project applications for the implementation of the measures set out in national annual work programmes. They shall ensure that projects meet the criteria set out in Article 3, giving priority to those projects that make the greatest contribution to the achievement of the objectives of this Regulation.

7. National agencies shall report to the Commission on the implementation of national annual work programmes. They shall make the final project reports referred to in Article 12(1), or summaries of them, available to the public. The Commission shall regularly publish lists of projects financed through LIFE+, including a short description of objectives and results achieved and a summary of funds expended. It shall do so using appropriate media and technologies, including the Internet.

Article 7

Financial procedures and budget delegation

1. The Commission shall implement this Regulation in accordance with the Financial Regulation.

2. The Commission may decide to entrust part of implementation of the budget to national agencies designated in agreement with the Member State concerned on the basis of Article 54(2)(c) of the Financial Regulation and in accordance with the selection criteria set out in Annex II of this Regulation.

Article 8

Beneficiaries

Public and/or private bodies, actors and institutions may receive financing through LIFE+.

Article 9

Participation of third countries

Programmes financed through LIFE+ shall be open to the participation of the following countries, provided that supplementary appropriations are received:

(a) EFTA States which have become members of the European Environment Agency in accordance with Council Regulation (EC) No 933/1999 of 29 April 1999 amending Regulation (EEC) No 1210/90 on the establishment of the European Environment Agency and the European environment information and observation network [1];

(b) candidate countries for accession to the European Union;

(c) Western Balkan countries included in the Stabilisation and Association Process.

Article 10

Complementarity between financial instruments

This Regulation shall not finance measures which fall within the eligibility criteria of, or receive assistance for the same purpose from, other Community financial instruments, including the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development, the Competitiveness and Innovation Framework Programme, the European Fisheries Fund and the seventh Research Framework Programme. The beneficiaries under this Regulation shall provide information on funding they have received from the Community budget and on their ongoing applications for funding to the Commission for centrally financed measures or to the national agency for delegated measures. Synergies and complementarity shall be sought with other Community instruments.

Article 11

Duration and budgetary resources

1. This Regulation shall be implemented during the period beginning on 1 January 2007 and ending on 31 December 2013.

2. The financial envelope for the implementation of LIFE+ shall be set at Euro 1 854 372 000 for the period from 1 January 2007 to 31 December 2013.

3. The budgetary resources allocated to the actions provided for in this Regulation shall be entered in the annual appropriations of the general budget of the European Union.

The budgetary authority shall authorise the available annual appropriations within the limits of the financial framework.

[1] OJ L 117, 5.5.1999, p. 1.

4. At least 40 % of the budgetary resources for LIFE+ shall be allocated to measures to support the conservation of nature and biodiversity.

Article 12

Monitoring

1. For any measures and projects financed by LIFE+, the beneficiary shall submit, to the Commission for centrally financed measures or to the national agency for delegated measures, technical and financial reports on the progress of work. A final report shall also be submitted within three months of the completion of the project.

2. Without prejudice to the audits carried out by the Court of Auditors in liaison with the competent national audit bodies or departments pursuant to Article 248 of the Treaty, or any inspection carried out pursuant to Article 279(1)(b) of the Treaty, officials and other staff of the Commission shall carry out on-the-spot checks, including sample checks, on projects financed under LIFE+, in particular to check compliance with the eligibility criteria set out in Article 3.

3. Contracts and agreements resulting from this Regulation, including agreements with national agencies, shall provide in particular for supervision and financial control by the Commission, or any representative that the Commission may authorise, and for audits by the Court of Auditors, if necessary on-the-spot.

4. The beneficiary of financial assistance shall keep available for the Commission, for a period of five years following the last payment in respect of any project, all supporting documents regarding expenditure on that project.

5. On the basis of the results of the reports and sample checks referred to in paragraphs 1 and 2, the Commission shall, if necessary, adjust the scale or the conditions of allocation of the financial assistance originally approved as well as the timetable for payments.

6. The Commission shall take all other steps necessary to verify that measures and projects financed are carried out properly and in compliance with the provisions of this Regulation and the Financial Regulation.

Article 13

Protection of Community financial interests

1. The Commission shall ensure that, when measures financed under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of the amounts unduly paid and, if irregularities are detected, by the application of effective, proportional and dissuasive penalties, in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests [1], Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities [2], 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) [3].

2. For Community measures financed under LIFE+, 'irregularity' as referred to in Article 1(2) Regulation (EC, Euratom) No 2988/95, shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them by an unjustified item of expenditure.

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

4. If time limits have not been observed or if only part of the allocated financial assistance is justified by the progress made with implementing a project, the Commission shall request the beneficiary to submit observations within a specified period. If the beneficiary does not give a satisfactory answer, the Commission may cancel the remaining financial assistance and demand repayment of sums already paid.

5. Any undue payment shall be repaid to the Commission. Interest shall be added to any sums not repaid in good time under the conditions laid down by the Financial Regulation.

Article 14

Committee

1. The Commission shall be assisted by a committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

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(1) OJ L 312, 23.12.1995, p. 1.
(2) OJ L 292, 15.11.1996, p. 2.
(3) OJ L 136, 31.5.1999, p. 1.

3. Where reference is made to this paragraph, 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(2) of Decision 1999/468/EC shall be set at three months.

4. The committee shall adopt its rules of procedure.

Article 15

Implementing decisions

1. The following implementing decisions shall be taken in accordance with the procedure referred to in Article 14(2):

(a) to adopt and, if necessary, to amend multi-annual strategic programmes drawn up in accordance with Article 6(1);

(b) to adopt and, if necessary, to amend national annual work programmes based on drafts that Member States have submitted in accordance with Article 6(3);

(c) to add measures to Annex I or to amend Annex II; and

(d) to lay down detailed rules necessary for the implementation of this Regulation.

2. The following implementing decisions shall be taken in accordance with the procedure referred to in Article 14(3):

(a) to decide to delegate implementation of the budget to a national agency or agencies in accordance with Article 7(2) and to confirm the agency's or agencies' compliance with the selection criteria set out in Annex II;

(b) to specify the format, content and submission dates for draft national annual work programmes for the purposes of Article 6(3) and of the reports referred to in Article 6(7);

(c) to determine the form, content and recipients of the reports referred to in Article 12(1); and

(d) to establish indicators to assist the monitoring of measures financed by LIFE+.

Article 16

Evaluation

1. The Commission shall ensure that regular monitoring of multi-annual programmes takes place to assess their impact.

2. No later than 30 September 2010, the Commission shall submit a mid-term review of LIFE+ to the European Parliament and to the Committee referred to in Article 14(1). The mid-term review shall evaluate the implementation of this Regulation from 2007 to 2009. The Commission shall, if appropriate, propose modifications to the implementing decisions in accordance with Article 15.

3. The Commission shall arrange for a final evaluation of the implementation of this Regulation assessing its contribution to the implementation, updating and development of Community environmental policy and legislation and the use made of the appropriations. It shall submit this final evaluation to the European Parliament and the Council no later than 31 December 2012, together, if appropriate, with a proposal for the further development of a financial instrument exclusively in the environmental field, to apply from 2014 onwards.

Article 17

Repeal and transitional provisions

1. The following instruments shall be repealed with a view to simplification and consolidation:

(a) Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE) ([1]);

(b) Decision No 1411/2001/EC of the European Parliament and of the Council of 27 June 2001 on a Community Framework for cooperation to promote sustainable urban development ([2]);

(c) Decision No 466/2002/EC of the European Parliament and of the Council of 1 March 2002 laying down a Community action programme promoting non-governmental organisations primarily active in the field of environmental protection ([3]);

(d) Regulation (EC) No 2152/2003 of the European Parliament and of the Council of 17 November 2003 concerning monitoring of forests and environmental interactions in the Community (Forest Focus) ([4]).

2. Measures started before 31 December 2006 pursuant to the acts referred to in paragraph 1 shall, until their completion, continue to be governed by those acts. The Committee referred to in Article 14(1) shall replace the committees provided for in these acts. This Regulation shall be used to fund any obligatory monitoring and evaluation required under those acts following their expiry. Until their completion, measures shall comply with the technical provisions defined in the acts referred to in paragraph 1.

Article 18

Entry into force

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

([1]) OJ L 192, 28.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 1682/2004 (OJ L 308, 5.10.2004, p. 1).

([2]) OJ L 191, 13.7.2001, p. 1. Decision as amended by Decision No 786/2004/EC (OJ L 138, 30.4.2004, p. 7).

([3]) OJ L 75, 16.3.2002, p. 1. Decision as amended by Decision No 786/2004/EC.

([4]) OJ L 324, 11.12.2003, p. 1. Regulation as amended by Regulation (EC) No 788/2004 (OJ L 138, 30.4.2004, p. 17).

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

Done at Luxembourg,

For the European Parliament	*For the Council*
The President	*The President*
…	…

ANNEX I

MEASURES ELIGIBLE FOR FUNDING

Without prejudice to Article 10, the following measures may be financed by LIFE+ if they satisfy the eligibility criteria set out in Article 3:

1. as regards the budget subject to central direct management:

   (a) certain operational activities of NGOs that are primarily active in protecting and enhancing the environment at European level,

   (b) developing and maintaining networks and computer systems directly linked to the implementation of Community environmental policy and legislation;

2. as regards the budget subject to either central direct or delegated management:

   (a) studies, surveys, modelling and scenario building;

   (b) monitoring, including the monitoring of forests;

   (c) capacity building assistance;

   (d) training, workshops and meetings, including the training of agents participating in forest fire prevention initiatives;

   (e) networking and best practice platforms;

   (f) information and communication actions, including awareness-raising campaigns and, in particular, public awareness-campaigns on forest fires;

   (g) demonstration of innovative policy approaches, technologies, methods and instruments;

   (h) national agencies' staff costs; and

   (i) specifically for the nature and biodiversity component:

   — site and species management and site planning, including the improvement of the ecological coherence of the Natura 2000 network;

   — the monitoring of conservation status, including setting up procedures and structures for such monitoring;

   — the development and implementation of species and habitats conservation action plans;

   — the extension of the Natura 2000 network in marine areas;

   — the purchase of land, provided that:

     — the purchase would contribute to maintaining or restoring the integrity of a Natura 2000 site,

     — land purchase is the only or most effective way of achieving the desired conservation outcome,

     — the land purchased is reserved in the long term for uses consistent with the objectives set out in Article 4(2), and

     — the Member State concerned shall, by way of transfer or otherwise, ensure the long-term reservation of such land for nature conservation purposes.

ANNEX II

CRITERIA FOR THE DELEGATION OF BUDGET IMPLEMENTATION TASKS

1. The Commission shall designate national agencies in agreement with Member States. Member States may also designate national agencies in accordance with Article 54(2)(c) and Article 56 of the Financial Regulation and with Articles 38 and 39 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Regulation (EC, Euratom) No 1605/2002 [1]. Member States shall establish administrative and financial provisions vis-à-vis national agencies with a view to the effective implementation of national annual work programmes.
2. The Commission shall ensure that delegation complies with the principles of economy, effectiveness and efficiency. Before proceeding with any delegation, the Commission shall ensure, by means of an assessment, that delegation of funds to national agencies complies with sound financial management and will enhance the visibility of the Community action.
3. A body designated as a national agency shall comply with the following criteria:
   — it has legal personality and is governed by the law of the Member State concerned;
   — it has an adequate number of staff, with professional capacities in the field of environment policy;
   — it has appropriate infrastructure, in particular as regards computing and communications;
   — it operates in an administrative context which enables it to carry out its tasks satisfactorily and to avoid conflicts of interest;
   — it is in a position to apply the financial management rules and contractual conditions laid down at Community level;
   — it offers adequate financial guarantees, issued preferably by a public authority, and its management capacity is appropriate to the level of Community funds that it will be called upon to manage.
4. The Commission shall conclude an agreement with each national agency in accordance with Article 41 of Regulation (EC, Euratom) No 2342/2002, setting out detailed provisions covering, *inter alia*, the definition of tasks, rules on reporting, the demarcation of responsibilities and control arrangements. National agencies shall respect the principles of transparency and equality of treatment. They shall avoid double-funding from other sources of Community funds. They shall monitor projects and recover any funds due for reimbursement by beneficiaries.
5. Moreover, the Commission shall verify that Member States take necessary steps to ensure the appropriate audit and financial overseeing of national agencies. Member States shall, before any delegation takes place, provide the Commission with necessary assurances as to the existence, relevance and proper operation of rules of sound financial management within the relevant national agency.
6. Each national agency shall be responsible for any funds not recovered in the event of irregularity, negligence or fraud imputable to it.
7. The Commission shall, in cooperation with Member States, ensure the transition between measures carried out within the context of the earlier programmes in the environmental field and those to be implemented under this Regulation.

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

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

The Commission adopted its proposal ([1]) for a Regulation concerning the Financial Instrument for the Environment ('LIFE+') in September 2004.

The European Parliament adopted its first-reading opinion in July 2005 ([2]).

The Committee of the Regions ([3]) and the Economic and Social Committee ([4]) adopted their opinions in April 2005.

The Council adopted its common position on 27 June 2006.

II. OBJECTIVE

The proposed Regulation is one of several relating to the financial framework for 2007 to 2013, but the only proposal specific to the environment. Its objective is:

— to provide specific support at Community level for measures and projects with European added value for the implementation, updating and development of Community environmental policy and legislation, in particular the implementation of the sixth Community Environment Action Programme (while funding for investments and management measures benefiting the environment, particularly in relation to the Natura 2000 network, would generally be available through other financial instruments); and

— to replace a number of existing programmes (while some elements of the current LIFE regime would be integrated into other financial instruments).

The aim of this 'integrated approach' is to provide more scope for co-financing, to encourage joined-up policy making and better to enable funding to reflect national and regional priorities.

III. ANALYSIS OF THE COMMON POSITION

1. General

The common position incorporates half of the European Parliament's first-reading amendments, either verbatim, in part or in spirit. In particular, it makes provision for a specific nature and biodiversity component and establishes general eligibility criteria to ensure European added value.

It does not reflect the remaining amendments because the Council agrees with the Commission that they are unnecessary and/or undesirable.

The common position also includes a number of changes other than those envisaged in the European Parliament's first-reading opinion. The following sections describe the changes of substance. In addition, there are drafting changes to clarify the text or to ensure the overall coherence of the Regulation.

2. Purpose, definitions and eligibility criteria (Articles 1, 2 and 3)

The common position is not consistent with European Parliament amendment 11. The Council believes that it is necessary to make a distinction between the **general objective** set out in Article 1 and the specific objectives set out in Article 4. It also considers that it is not necessary to paraphrase the objectives of 6th Community Environment Action Programme and that it would be inappropriate to seek to make changes to the priorities that the three Institutions have agreed for the period 2002 to 2012, as set out in Decision No 1600/2002/EC other than in the context of the review provided for in Article 11(1) of that Decision.

([1]) OJ C 12, 18.1.2005, p. 25.
([2]) doc. 10814/05
([3]) OJ C 231, 20.9.2005, p. 72.
([4]) OJ C 255, 14.10.2005, p. 52.

The Council has added Article 2 to give **definitions** of three terms that the Regulation uses frequently.

Article 3 is consistent with parts of amendments 12 and 42, 15 and 34 in that it lays down general **eligibility criteria** to ensure that Community co-financing through LIFE+ provides European added value. In particular, LIFE+ would not finance recurring activities, such as day-to-day operations.

3. **Specific objectives (Article 4 and Annex I)**

Article 4 takes on board other parts of amendments 12 and 42, in particular by the creation of a new component specifically for **nature and biodiversity** and the addition of references to eco-technologies and forests.

The common position also changes the status of Annex I from an indicative to an exhaustive list of **eligible measures**. Annex I no longer includes a section on themes. The Council considers that the objectives and criteria set out in Articles 1, 3 and 4 and the list of eligible measures in Annex I are sufficient to define the scope of LIFE+.

4. **Financial provisions (Articles 5 and 8 to 13)**

The Council cannot accept amendment 43 concerning the LIFE+ budget. The common position provides for a **financial envelope** of € 1 854 372 000, which is the figure contained in the Commission's amended proposal (made following the agreement of 17 May 2006 on the Financial Framework 2007-2013). [1]

The common position is fully consistent with amendment 44 since it contains no Annex setting out an indicative division of the LIFE+ budget between the components. However, rather than giving a figure for each of the three components as envisaged in amendment 26, to provide greater flexibility Article 11(4) would ring-fence 40 % of the budget specifically for measures to support the conservation of nature and biodiversity.

Article 5 is consistent with amendment 34 in that it sets a general maximum **co-financing rate** of 50 %. It is partly consistent with amendment 13 in that a higher co-financing of up to 75 % would be possible for certain nature protection projects. Article 5 also includes clarification on the co-financing of staff costs (consistent with current practice and the Financial Regulation).

The Council believes that there is no need to give examples of potential **beneficiaries** of LIFE+ funding. Article 8 is therefore not consistent with amendment 21.

The Council agrees that, consistent with the principle of **complementarity**, LIFE+ should not finance measures which fall within the eligibility criteria of other Community financial instruments. Article 10 of the common position is consistent with the aim of amendment 23.

On **monitoring**, the common position strengthens the requirement for the Commission to carry out on-the-spot checks. Read together with Article 17(2)(c), Article 12(1) is consistent with the objectives of amendment 27.

5. **Programming approach (Articles 6 and 7 and Annex II)**

The Commission's proposal envisaged the delegation of a significant part of budget implementation to Member States. The Council accepts this approach, but has included considerably more detail on the applicable procedures in the common position. This provides greater clarity on the respective roles of Member States and the Commission and on the types of expenditure that will fall under the centrally managed part of the budget (in particular for NGOs, which is consistent with amendment 36).

[1] EUR 1 854 372 000 is in 2004 prices (equivalent to EUR 2 097 880 000 in current prices). Point 37 of the Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure provides that this amount will constitute the prime reference for the budgetary authority during the annual budgetary procedure.
The Council has also made a statement on the figure contained in the Commission's amended proposal.

The common position also contains detailed criteria for the allocation of the delegated part of the budget between Member States. There are two criteria: population, including population density, since this is a proxy for many environmental pressures; and nature and biodiversity (based on the absolute and relative size of designated sites). The annexed table gives an indication of the implications of these criteria.

Article 6 is partly consistent with amendment 14, since it makes clear (paragraph 3, second subparagraph) that LIFE+ could fund transnational measures. The procedure for the adoption of national annual work programmes is in line with the aim of amendment 16, since it would give Member States flexibility to take account of national and regional priorities.

The Council cannot accept the first part of amendment 15 or amendments 17 or 18. Adopting multi-annual strategic programmes through co-decision would unduly delay the funding of environmental projects. However, the common position includes significantly more details in the co-decided text of the Regulation.

6. **Comitology (Articles 14 and 17)**

The common position is broadly consistent with amendment 29, since all key decisions would be subject to the regulatory procedure. This is appropriate because the Regulation establishes a general framework for seven years. Community and national priorities are likely to evolve significantly during this period. The multi-annual strategic programmes and national annual work programmes will deal with matters of critical concern to individual Member States and of crucial importance for their national environmental policy. However, certain more technical decisions should be subject to the management procedure.

The Council cannot accept amendments 28, 30 and 31 since they would deviate from the procedures laid down in Decision 1999/468/EC. Any changes would need to be negotiated horizontally, not in the context of a specific instrument.

7. **Other**

In addition the common position:

— has a slightly expanded **preamble** to clarify key provisions in the body of the Regulation. The recitals incorporate European Parliament first-reading amendment 9 (but not amendments 1 to 8, since the proposed text would not have motivated any provision in the Articles or Annexes or would not have been consistent with these provisions). In addition, recital 15 is partly consistent with the aim of amendment 24;

— includes in Articles 6(7) and 12(2) requirements for the Commission to carry out and report on **follow-up measures** consistent with the aim of amendment 19;

— meets the objectives of amendments 32 and 33 by clarifying, in Article 15, the aim of, and timetable for, **evaluation reports**;

— does not incorporate amendment 20, since the Commission would not be able to ensure that the implementation of LIFE+ leads to **job creation**.

IV. **CONCLUSION**

The Council believes that the common position represents a balanced package that would provide targeted Community co-financing to complement other Community financial instruments and national and regional environmental expenditure. It looks forward to constructive discussions with the European Parliament with a view to the early adoption of the Regulation.

ANNEX

INDICATIVE ALLOCATIONS TO MEMBER STATES FOR 2007

Member State	Surface area (km²)	Population (thousands)	% of total EU population	Population density	Ratio MS density: EU density	Normalised ratio population density	SCI surface area (km²)	Ratio SCI:total	% SCI total	Ratio MS %: EU total %	Normalised ratio SCIs	Budget allocation (%)	Budget allocation (EUR million)	Corrected budget allocation (EUR million)	Member State
A	B	C	D	E	F	G	H	I	L	M	N	O	P	Q	R
			(C/Total C)	(C·1000/B)	(E/Total E)	(F/Total F)		(H/Total H)	(H/B)	(J/Total J)	(K/Total K)	(0,5·D+0,05·G +0,25·I+,2·L)	(D42·M)		
BE	30 528,00	10 396,40	2,14 %	226,56	2,00	7,23 %	3 220,88	0,54 %	10,55 %	0,76	2,67 %	2,10 %	3,991	3,968	BE
CZ	78 866,00	10 211,50	2,10 %	129,48	1,14	4,13 %	7 241,36	1,22 %	9,18 %	0,67	2,32 %	2,03 %	3,851	3,829	CZ
DK	43 093,00	5 397,60	1,11 %	125,25	1,11	4,00 %	11 135,95	1,88 %	25,84 %	1,87	6,54 %	2,53 %	4,813	4,785	DK
DE	357 031,00	82 531,70	16,97 %	226,56	2,00	7,23 %	53 293,92	9,00 %	14,93 %	1,08	3,78 %	11,85 %	22,517	22,388	DE
EE	45 226,00	1 351,00	0,28 %	29,87	0,26	0,95 %	10 591,08	1,79 %	23,42 %	1,70	5,93 %	1,82 %	3,456	3,437	EE
EL	131 940,00	11 041,10	2,27 %	83,68	0,74	2,67 %	27 640,97	4,67 %	20,95 %	1,52	5,30 %	3,50 %	6,642	6,604	EL
ES	504 782,00	42 345,30	8,71 %	83,89	0,74	2,68 %	119 104,03	20,11 %	23,60 %	1,71	5,97 %	10,71 %	20,347	20,230	ES
FR	549 192,00	59 900,70	12,32 %	109,07	0,96	3,48 %	48 809,61	8,24 %	8,89 %	0,64	2,25 %	8,84 %	16,800	16,704	FR
IE	70 280,00	4 027,70	0,83 %	57,31	0,51	1,83 %	10 560,74	1,78 %	15,03 %	1,09	3,80 %	1,71 %	3,253	3,234	IE
IT	301 333,00	57 888,20	11,90 %	192,11	1,70	6,13 %	43 977,33	7,43 %	14,59 %	1,06	3,69 %	8,85 %	16,820	16,723	IT
CY	9 250,00	730,4	0,15 %	78,96	0,70	2,52 %	509,52	0,09 %	8,88 %	0,64	2,25 %	0,67 %	1,277	2,000	CY
LV	64 589,00	2 319,20	0,48 %	35,91	0,32	1,15 %	7 651,27	1,29 %	11,85 %	0,86	3,00 %	1,22 %	2,315	2,500	LV
LT	65 200,00	3 445,90	0,71 %	52,85	0,47	1,69 %	6 663,58	1,13 %	10,22 %	0,74	2,59 %	1,24 %	2,351	2,500	LT
LU	2 597,00	451,6	0,09 %	173,89	1,54	5,55 %	383,11	0,06 %	14,75 %	1,07	3,73 %	1,09 %	2,065	2,053	LU
HU	93 030,00	10 116,70	2,08 %	108,75	0,96	3,47 %	13 929,21	2,35 %	14,97 %	1,09	3,79 %	2,56 %	4,863	4,835	HU
MT	316,00	399,4	0,08 %	226,56	2,00	7,23 %	39,35	0,01 %	12,45 %	0,90	3,15 %	1,03 %	1,966	1,954	MT
NL	41 526,00	16 258,00	3,34 %	226,56	2,00	7,23 %	7 510,00	1,27 %	18,09 %	1,31	4,58 %	3,27 %	6,204	6,169	NL

Member State	Surface area (km²)	Population (thousands)	% of total EU population	Population density	Ratio MS density: EU density	Normalised ratio population density	SCI surface area (km²)	Ratio SCI:total	% SCI total	Ratio MS %: EU total %	Normalised ratio SCIs	Budget allocation (%)	Budget allocation (EUR million)	Corrected budget allocation (EUR million)	Member State
A	B	C	D	E	F	G	H	I	L	M	N	O	P	Q	R
			(C/Total C)	(C·1000/B)	(E/Total E)	(F/Total F)		(H/Total H)	(H/B)	(J/Total J)	(K/Total K)	(0,5·D+0,05·G +0,25·I+,2·L)	(D42·M)		
AT	83 859,00	8 140,10	1,67 %	97,07	0,86	3,10 %	8 883,93	1,50 %	10,59 %	0,77	2,68 %	1,90 %	3,616	3,595	AT
PL	312 685,00	38 190,60	7,85 %	122,14	1,08	3,90 %	13 123,86	2,22 %	4,20 %	0,30	1,06 %	4,89 %	9,286	9,233	PL
PT	91 990,00	10 474,70	2,15 %	113,87	1,01	3,63 %	16 502,94	2,79 %	17,94 %	1,30	4,54 %	2,86 %	5,440	5,409	PT
SI	20 273,00	1 996,40	0,41 %	98,48	0,87	3,14 %	6 359,62	1,07 %	31,37 %	2,27	7,94 %	2,22 %	4,216	4,192	SI
SK	48 845,00	5 380,10	1,11 %	110,15	0,97	3,51 %	5 739,36	0,97 %	11,75 %	0,85	2,97 %	1,57 %	2,975	2,958	SK
FI	338 145,00	5 219,70	1,07 %	15,44	0,14	0,49 %	48 551,64	8,20 %	14,36 %	1,04	3,63 %	3,34 %	6,341	6,305	FI
SE	414 864,00	8 975,70	1,85 %	21,64	0,19	0,69 %	62 356,23	10,53 %	15,03 %	1,09	3,80 %	4,35 %	8,265	8,218	SE
UK	244 820,00	59 673,10	12,27 %	226,56	2,00	7,23 %	25 102,47	4,24 %	10,25 %	0,74	2,60 %	8,07 %	15,342	15,254	UK
BG	110 910,00	7 801,3	1,60 %	70,34	0,62	2,24 %	15 299,25	2,58 %	13,79 %	1,00	3,49 %	2,26 %	4,291	4,266	BG
RO	238 391,00	21 711,3	4,46 %	91,07	0,80	2,91 %	18 085,00	3,05 %	7,59 %	0,55	1,92 %	3,52 %	6,697	6,658	RO
EU + BG + RO	4 293 561,00	486 375,40	100,00 %	113,28	27,67	100,00 %	592 266,18	100,00 %	13,79 %	28,64	100,00 %	100,00 %	190	190	EU

NOTES

The Commission services prepared the above table. The allocations shown are indicative. The actual allocations will be fixed through comitology following adoption of the Regulation. A number of factors could result in the actual allocations being somewhat different.

1. The table indicates allocations for 2007, based on a delegated budget of EUR 190 million for that year. The Commission's financial programming envisages that both the LIFE+ budget and the share of the budget allocated to Member States would increase year on year.
2. The table uses the most recent data available to the Commission (e.g., Member States' populations are those given in the Eurostat yearbook for 2005 and SCI data is that available at 15 May 2006). The data and therefore the allocations will change over the life of the LIFE+ instrument. In particular, Article 6(2), second subparagraph, mandates the Commission to make the calculations for nature and biodiversity on the basis of both sites of Community importance and special protection areas, while avoiding double counting, as soon as relevant data are available for all Member States.
3. Article 6(2), third subparagraph, would enable the Commission to propose additional allocations for land-locked Member States. The table assumes that there would be no such additional allocations in 2007.
4. The area of SCIs in BG has been estimated at the average for the current Member States and RO. The area of SCIs in CY applies only to the surface of the area to which the Habitats Directive applies.
5. Article 6(2), fourth subparagraph, prescribes a minimum annual allocation for all Member States of between EUR 1 and 3 million, taking into account population density, environmental expenditure, environmental need and absorption capacity. The table assumes that this provision would be used to increase the allocation for CY to EUR 2 million and those for LV/LT to EUR 2,5 million.