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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 722/97

of 22 April 1997

on environmental measures in developing countries in the context of sustainable development

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 130s and 130w thereof,

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

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

Acting in accordance with the procedure referred to in Article 189c of the Treaty (3),

(1) Whereas it is necessary to implement sustainable development by contributing to the genuine integration of an environmental dimension into the development process;

(2) Whereas the creation of suitable instruments and the implementation of experimental schemes will be the cornerstones of that integration in all the fields concerned;

(3) Whereas the European Parliament adopted a Resolution on 14 May 1992 on the environment and development cooperation;

(4) Whereas the Community and its Member States were signatories to the Rio Declaration and the Agenda 21 action programme;

(5) Whereas the Community and its Member States ratified the Conventions on Biological Diversity and on Climate Change, and have signed the Convention on Desertification; whereas they are thus committed to take into account the common but differing responsibilities of developed parties and developing parties on the subject;

(6) Whereas the Resolution of the Council and the Representatives of the Governments of the Member States of 1 February 1993 is concerned with a Community policy and action programme on the environment and sustainable development;

(7) Whereas, since resources are limited, information campaigns and pilot projects conducted in close cooperation with local experts are likely to have the maximum multiplier effect;

(8) Whereas it is important to integrate the internal and external aspects of the European Community's environment policy in order to have a coherent answer to the problems set out by the United Nations Conference on Environment and Development (UNCED), in particular as regards the effects of global environmental changes on the state of the environment within the Community;

(9) Whereas it is necessary, in the project management cycle, for any proposal for a development cooperation project to be evaluated for its environmental impact by specific, appropriate procedures;

(10) Whereas, in particular where climate change and the conservation of biological and genetic diversity and resources (including the seas, coasts and soils) are concerned, local effects have undeniable consequences for the whole earth and for future generations and consequently for the well-being, health and security of the citizens of the Community, notably as far as access to genetic resources is concerned;

(11) Whereas the financial instruments available to the Community for conservation and sustainable development could be usefully supplemented;

(12) Whereas measures need to be taken to finance the activities covered by this Regulation;

(1) OJ No C 20, 24. 1. 1996, p. 4.
(2) OJ No C 82, 19. 3. 1996, p. 18.
(3) Opinion of the European Parliament of 9 May 1996 (OJ No C 152, 27. 5. 1996, p. 56), Council Common Position of 27 June 1996 (OJ No C 264, 11. 9. 1996, p. 28) and Decision of the European Parliament of 12 November 1996 (OJ No C 362, 2. 12. 1996, p. 33).

(13) Whereas detailed rules for implementation, and in particular the form of action, the recipients of the aid and the decision-making procedure should be laid down;

(14) Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995 [1], is included in this Regulation for the entire duration of the programme, without thereby affecting the powers of the regulatory authority as they are defined by the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community shall provide financial assistance and technical expertise for activities conducted in developing countries which enable the people in these countries to integrate environmental protection and sustainable development concepts more easily into their daily life.

2. The assistance provided under this Regulation shall complement and reinforce assistance provided under other instruments of development cooperation with a view to fully taking into account environmental considerations in Community programmes.

Article 2

1. The activities to be carried out under this Regulation shall centre on:

— assisting developing countries in designing and implementing national strategies for sustainable and equitable development, including global environmental issues and strategies arising from international conventions,

— improving policies and practices for management and conservation of ecosystems, sustainable use of renewable natural resources and for environmentally sensitive use of non-renewable natural resources,

— preserving biological diversity:

  — by the promotion and the development of methods designed to ensure sustainable and equitable use of biodiversity resources,

  — through the conservation of the ecosystems and habitats necessary for maintaining species diversity and for the survival of endangered species,

  — by identifying and assessing biodiversity resources,

— preserving areas of high environmental pressure and/or transregional ecosystems such as marine ecosystems and coastal areas, watersheds, river/lake basins, underground water, by preventing pollution and reducing sources of pollution and supporting initiatives for their sustainable management,

— improving practices for soil conservation and management in agriculture, livestock farming, forestry and the fight against desertification,

— improving the environment and regional planning through urban development planning and the implementation of technologically adapted plans and pilot projects for transport, waste, waste water, the provision of drinking water and air pollution,

— applying and transferring technologies adapted to local environmental constraints and needs, especially in the field of energy and more particularly the field of renewable energies bearing in mind the long-term effects on the environment and adaptation to the traditional life of each region,

— activities aimed at avoiding emissions harmful to the climate,

— facilitating the adaptation of production processes in developing countries and making economic agents and social operators aware of the environmental constraints that may have an impact on trade (for example, standards, labels, certification),

— making local populations more aware of the notion of sustainable development, in particular through assisting information campaigns,

— initiatives aimed at protecting ecosystems and habitats and maintaining biological diversity.

2. Projects eligible for financing include:

— pilot schemes in the field likely to contribute to sustainable development, environmental protection and long-term management of natural resources,

— establishment of guidelines and operational instruments aimed at promoting sustainable development and environmental integration, particularly in the form of plans and integrated management programmes and economic instruments,

— environmental impact studies on sustainable development projects, programmes, strategies and policies, and assessment of their repercussions on social and economic development,

— inventory, accounting and statistical work, in order to improve environmental data and indicators.

3. Particular attention will be given to:

— projects arising from local initiatives and low-cost projects involving innovative measures aimed at sustainable management,

[1] OJ No C 102, 4. 4. 1996, p. 4.

— schemes to build up the operational and institutional capacities of developing countries at national, regional and local level, with the support also of non-governmental organizations (NGOs),

— prior consultation of the local populations, including the indigenous communities, and to their involvement and support in identifying, planning and implementing projects. In particular, the role and specific situation of women shall be taken into account,

— regional activities or activities which contribute to the strengthening of regional cooperation in the field of sustainable development.

Article 3

Aid recipients and cooperation partners shall include not only States and regions but also decentralized departments, regional bodies, public agencies, traditional and local communities, private operators and industries, including cooperatives and NGOs and associations representing local people.

Article 4

1. The instruments to be employed in the course of the activities referred to in Article 2 shall include studies, technical assistance, education, training or other services, supplies and works, as well as audits and evaluation and monitoring missions.

2. Community financing may cover both investment, with the exception of the purchase of buildings, and, since the project must, if possible, aim at medium-term viability, recurring expenditure (including administrative, maintenance and operating expenditure).

However, apart from training, education and research programmes, such expenditure may as a general rule be covered only during the start-up period and the cover shall decrease gradually.

3. A contribution from the partners defined in Article 3 shall be sought for each cooperation operation. Their contribution shall be requested according to their means and the nature of the operation concerned.

4. Opportunities may be sought for cofinancing with other providers of funds, especially with Member States and the international organizations concerned, such as the Global Environmental Facility.

5. The necessary measures shall be taken to emphasize the Community character of the aid provided under this Regulation.

6. In order to attain the objectives of consistency and complementarity laid down in the Treaty and with the aim of guaranteeing optimum efficiency for the totality of these operations, the Commission may take all coordination measures necessary, including in particular:

(a) the establishment of a system for 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 operations by means of regular meetings and exchange of information between the representatives of the Commission and Member States in the beneficiary country, and the representatives of the beneficiary countries.

7. In order to obtain the greatest possible impact globally and nationally, the Commission, in liaison with the Member States, shall take any initiative necessary for ensuring proper coordination and close collaboration with the beneficiary countries and the providers of funds and other international agencies involved, in particular those forming part of the United Nations system.

Article 5

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

Article 6

The financial reference amount for the implementation of this programme for the period 1997 to 1999 shall be ECU 45 million.

Annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

Article 7

1. The Commission shall be responsible for appraising, deciding and administering operations 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 Communities.

2. Decisions relating to grants of more than ECU 2 million for individual operations financed under this Regulation shall be adopted under the procedure laid down in Article 8.

The Commission shall inform the Committee referred to in Article 8 succinctly of any financing decisions it intends to take with regard to projects and programmes of less than ECU 2 million in value. The information shall be made available not later than one week before the decision is taken.

3. The Commission shall be authorized to approve, without seeking the opinion of the Committee referred to in Article 8, any extra commitments needed for covering any expected or real cost overruns in connection with the operations, provided that the overrun or additional requirement is less than or equal to 20 % of the initial commitment fixed by the financing decision.

4. 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 according to 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 Communities.

5. 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.

6. 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.

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

8. Particular attention will be given to:

— the pursuit of cost-effectiveness and sustainable impact in project design;

— the clear definition and monitoring of objectives and indicators of achievement for all projects.

Article 8

1. The representative of the Commission shall be assisted by the geographically-determined Committee competent for development.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 9

An exchange of views shall take place once a year on the basis of a presentation by the representative of the Commission of the general guidelines for the operations to be carried out in the year ahead, in the framework of a joint meeting of the committees referred to in Article 8 (1).

Article 10

1. After each budget year, the Commission shall submit an annual report to the European Parliament and the Council summarizing the operations financed in the course of that year and evaluating the implementing of this Regulation over that period.

The summary shall in particular provide information both about the quality and quantity of the projects financed, the outcome of the projects carried out and about those with whom contracts have been concluded. The report shall also include a quantified summary of the external assessments carried out, if any, regarding specific activities.

2. The Commission shall regularly assess operations financed by the Community with a view to establishing whether the objectives aimed at by those operations have been achieved and to providing guidelines for improving the effectiveness of future operations. The Commission shall submit to the Committee referred to in Article 8 a summary of the assessments made which may, if appropriate, be examined by the Committee. The assessment reports shall be available to any Member States requesting them.

3. The Commission shall inform the Member States, at the lastest one month after its decision, of the operations and projects that have been approved, stating their cost and nature, the recipient country and partners.

4. The financial guide specifying the guidelines and criteria applicable to the selection of projects shall be published and communicated to the interested parties by the Commission offices including Commission delegations in beneficiary countries.

Article 11

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 be applicable until 31 December 1999.

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

Done at Luxembourg, 22 April 1997.

For the Council

The President

J. VAN AARTSEN