

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EEC) establishing a cohesion financial instrument

(93/C 38/14)

COM(92) 599 final

(Submitted by the Commission on 5 January 1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 130 a of the Treaty provides for the Community to develop and pursue its actions leading to the strengthening of its economic and social cohesion and in particular for it to aim at reducing disparities between the various regions and the backwardness of the least-favoured regions;

Whereas promoting economic and social cohesion calls for Community action to supplement the activities of the Structural Funds, the European Investment Bank (EIB) and other financial instruments in the fields of the environment and of transport infrastructure of common interest;

Whereas the European Council, at its meeting in Edinburgh on 11 and 12 December 1992, proposed creating an interim financial instrument pending the establishment of a cohesion fund;

Whereas, given the conclusions of the European Council and given the impossibility of implementing, on the basis of Article 235 of the EEC Treaty, the set of conditions which are linked to Article 104 c of the draft Treaty on European Union, the financial instrument should be of a temporary nature; whereas it should be replaced as soon as possible by the cohesion fund as envisaged in Article 130 d of the draft Treaty and should in any event be reexamined before 31 December 1993 in the light of the process of ratifying the draft Treaty;

Whereas the financial resources of the financial instrument should be those provided for the cohesion fund in the financial perspectives for the general budget of the European Communities for the years for which the financial instrument applies;

Whereas the promotion of economic and social cohesion calls for a concentration of the funds available to the cohesion financial instrument on projects concerning the environment and transport infrastructure of common interest in Member States with a per capita GNP of less than 90 % of the Community average;

Whereas the implementation of convergence programmes designed to avoid excessive government deficits is a necessary condition for progress towards economic and monetary union;

Whereas Title IV of Part Two of the Treaty provides that the Council shall lay down any appropriate provisions to implement a common transport policy; whereas the Community should make a contribution, through the cohesion financial instrument, to trans-European networks in the area of transport infrastructure;

Whereas Article 130 r of the Treaty defines the objectives of the Community in the field of the environment; whereas the Community should contribute, through the cohesion financial instrument, to action designed to achieve these objectives in accordance with Article 130 s of the Treaty;

Whereas, in the light of an undertaking by the Member States concerned not to decrease their investment efforts in the fields of environmental protection and transport infrastructure, additionality in the sense of Article 9 of Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and other existing financial

instruments ⁽¹⁾ will not apply to the cohesion financial instrument;

Whereas it is necessary to coordinate action taken in the fields of the environment and of trans-European transport networks through the cohesion financial instrument, the Structural Funds, the European Investment Bank and the other financial instruments in order to enhance the effectiveness of Community operations;

Whereas, with a view to helping Member States in the preparation of projects, the Commission should be in a position to supply the necessary technical support;

Whereas the operations of the cohesion financial instrument must be consistent with Community policies, *inter alia*, those regarding environmental protection, transport, competition and the award of public contracts;

Whereas an indicative allocation of commitment appropriations between the Member States should be provided for in order to facilitate the programming of projects;

Whereas it is necessary, given the requirements of economic and social cohesion, to provide a high rate of assistance;

Whereas, in the interests of the proper management of the cohesion financial instrument, the provisions contained in Titles VI and VII of Regulation (EEC) No 4253/88 should be applied where appropriate and by analogy;

Whereas provision should be made to give adequate publicity to Community assistance provided by the cohesion financial instrument;

Whereas, for the adoption of this Regulation, the Treaty provides for no other powers than those contained in Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

Definition and scope

A cohesion financial instrument (hereinafter referred to as 'the financial instrument') is hereby established, whereby the Community shall provide financial contributions to projects in the fields of the environment and trans-European transport infrastructure networks in Greece, Spain, Ireland and Portugal, each of which shall have a convergence programme examined by the Council, designed to avoid an excessive government deficit.

Article 2

Eligible projects

The financial instrument may provide support for:

- environmental projects contributing to the achievement of the objectives of Article 130 r of the

Treaty, including projects resulting from measures adopted pursuant to Article 130 s of the Treaty,

- transport infrastructure projects of common interest financed by Member States which promote the inter-connection and interoperability of national networks and access to such networks, taking account in particular of the need to link insular, landlocked or peripheral regions with the central regions of the Community, in particular the projects which are provided for in trans-European network schemes which have been adopted by the Council or proposed by the Commission in accordance with Title IV of Part Two of the Treaty,
- preparatory studies and technical support measures related to eligible projects.

Article 3

Financial resources

The commitment appropriations for the financial instrument shall be ECU 1 500 million in 1993 and ECU 1 750 million in 1994, expressed in 1992 prices.

Article 4

Indicative allocation

In order to facilitate the planning of assistance in the Member States concerned the Commission shall on the basis of an indicative allocation of the total resources of the financial instrument, establish the commitment appropriations for each Member State. The indicative allocation shall principally be based on population, GNP per capita and surface area; it shall also take account of other socio-economic factors, such as deficiencies in transport infrastructure.

Article 5

Rate of assistance

1. The rate of assistance granted by the financial instrument shall be 80 to 85 % of public or similar expenditure as defined for the purposes of the Structural Funds.
2. Preliminary studies and technical support measures necessary for the implementation of eligible projects may be financed at 100 %.

Article 6

Coordination and compatibility with Community policies

1. Projects financed by the financial instrument shall be in keeping with the provisions of the Treaties, with the instruments adopted pursuant thereto and with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts.

(¹) OJ No L 374, 31. 12. 1988, p. 1.

2. The Commission shall ensure coordination and coherence between projects undertaken in pursuance of this Regulation and measures undertaken with contributions from the Community budget, the EIB and the other financial instruments of the Community.

Article 7

Combination and overlapping

1. No item of expenditure may benefit both from the financial instrument and from the European Agricultural Guidance and Guarantee Fund, the European Social Fund or the European Regional Development Fund.

2. Where a project benefits from other Community assistance, the combined assistance granted by the Community shall not exceed 90 % of total expenditure

Article 8

Approval of projects

1. The projects to be financed under the financial instrument shall be decided upon by the Commission in agreement with the Member State concerned.

2. The Member States concerned and the Commission shall ensure an appropriate balance between projects in the fields of the environment and transport infrastructure.

3. Applications for assistance in accordance with Article 2 shall be submitted by the Member State concerned. Projects, including groups of related projects, shall be of a sufficient scale to have a significant impact in the field of environmental protection or in the improvement of trans-European transport infrastructure networks.

4. Applications shall contain the following information: the body responsible for implementation, the nature of the investment, its location and costs, the timetable for implementation, the financing plan and the total financing the Member State is seeking under the financial instrument and any other Community source. They shall also contain any information necessary to show that the projects are in accordance with this Regulation.

5. The following criteria shall be employed to ensure the quality of the projects:

- their medium-term economic and social benefits, an assessment which shall be commensurate with the resources deployed; this shall be made in the light of an analysis of costs and benefits,
- the priorities established by the beneficiary Member States,

— the contribution which projects can make to the implementation of Community policies on the environment and trans-European networks,

— the compatibility of projects with Community policies and their consistency with other Community structural measures.

6. Subject to the availability of commitment appropriations, the Commission shall decide on assistance from the financial instrument generally within three months of receipt of an application. Commission decisions approving projects or groups of related projects shall determine the amount of financial support, a financing plan and all the provisions and conditions necessary for the realization of the projects.

7. The Commission decisions shall be published in the *Official Journal of the European Communities*.

Article 9

Financial provisions, monitoring and assessment

In implementing this Regulation, the Commission shall where appropriate and by analogy apply the relevant provisions of Titles VI and VII of Regulation (EEC) No 4253/88.

Article 10

Information and publicity

1. The Commission shall present an annual report on the activities of the financial instrument to the Council, the European Parliament and the Economic and Social Committee.

2. Member States shall ensure that adequate publicity is given to the operations of the financial instrument with a view to making the general public aware of the role played by the Community in relation to projects. They shall consult the Commission on, and inform it about, the initiatives taken for this purpose.

Article 11

Review

This Regulation shall be re-examined before 31 December 1993.

Article 12

Entry into force

This Regulation shall enter into force on 1 April 1993.

It shall remain in force for two years.

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