

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 153 final - SYN 500
Brussels, 10.06.1994

Amended proposal for a
COUNCIL REGULATION (EC)

on operations to promote tropical forests

(presented by the Commission pursuant to Article 189 A (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

The seriousness of the threat to tropical forests and the need for co-ordinated international action within a perspective linking environment and development have been emphasised by all Community institutions and confirmed during the recent Rio de Janeiro Conference..

In this context, an action at Community level, complementing Member States' actions, will facilitate a better realisation of the objectives pursued and the mobilisation of the necessary resources.

This Regulation lays down objectives and modalities of this action that will promote the conservation and sustainable management of tropical forests.

An initial proposal for a Regulation on actions in favour of tropical forests was presented by the Commission on 26 February 1993 (see document COM (93) 53 final).

In the light of the entry into force of the Treaty on European Union, the opinion of the Economic and Social Committee, the amendments put down by the European Parliament, and the current state of discussions in the Council, the Commission has drawn up a modified proposal for this Regulation.

The modified proposal largely reflects the amendments put down by the European Parliament. These refer particularly to the protection of biodiversity in tropical forests and the preservation of ecosystems, and they also stress that local dimensions should be taken into account, especially concerning the need for active participation by local communities.

However, like the first version, the modified proposal concentrates on cooperation activities in the fields of the environment and development, and does not contain provisions for commercial activities.

In addition, certain amendments concerning the structure and powers of the Commission have not been retained.

Finally, to underline the continuity necessary for Community actions in this field, the modified proposal does not contain any provisions limiting its duration.



Amended proposal for a
COUNCIL REGULATION (EC) N°
of
on operations to promote tropical forests

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Articles 130 S and 130 W;

Having regard to the proposal from the Commission;

In cooperation with the European Parliament⁽¹⁾;

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

Whereas the Commission communication to the Council of 16 October 1989 on "The conservation of tropical forests: The role of the Community"⁽³⁾, set out broad guidelines for Community action in this sphere;

Whereas the resolution of the Council of Ministers for Development Cooperation of the 29 May 1990 on "Tropical forests: development aspects" established a basis for the use of development instruments in tropical forest conservation;

Whereas the European Parliament expressed concern over the destruction of tropical forests and the consequences for forest peoples in many parliamentary resolutions;

Whereas the European Council of June 1990 in Dublin called for a programme of action to be drawn up to counteract the threat to tropical forests;

Whereas the Community and its Member States adopted the Rio Forest Principles, the Agenda 21 action programme and the Conventions on Biological Diversity and Climate Change;

Whereas the Community's operations to promote tropical forests form part of its objectives on conservation of forests;

Whereas the Community intends to expand its actions to promote the conservation of tropical forests in all appropriate ways, within the context of its environment policy and of its new development cooperation policy, laid down in articles 130 U ss. of the Treaty;

Whereas, by virtue of their special knowledge, the forest peoples play a key role in managing the environment, in particular with regard to the conservation of tropical forests;

(1) PE A3 - 304/93 of 29.10.93

(2) CES 707-93 ENVI 360 of 30.6.93

(3) OJ C264 16.10.89 p.1

Whereas the ecological and socio-economic conditions of tropical forests vary within regions and countries;

Whereas a Community action, complementing Member States' actions, will facilitate a better realisation of the objectives pursued;

Whereas existing financial instruments available to the Community for supporting the conservation and sustainable development of forests could usefully be complemented;

Whereas, in order to have a significant impact on the protection of tropical forests, provision should be made for funding adequately the actions referred to in this regulation;

Whereas rules for implementation, and in particular the form of action, the recipients of the aid, and decision procedures should be laid down;

HAS ADOPTED THIS REGULATION

Article 1

The Community shall support actions to promote the conservation and the sustainable management of tropical forests and the associated biological diversity in accordance with the criteria and procedures provided for in this Regulation.

Article 2

1. "Tropical forests" shall be defined, for the purposes of this regulation, as those natural and semi-natural tropical or subtropical forest ecosystems in both dry and humid areas. The areas concerned are those found within the tropics and subtropics delimited by the 30th northern and southern parallels.
2. "Conservation" shall be considered, for the purposes of this regulation, to include all actions to preserve and rehabilitate tropical forests, and specifically those actions which are designed to protect or restore the biological diversity, including ecological functions, of the forest ecosystem in question and at the same time secure as far as possible its current and future utility value for mankind and in particular for forest peoples.
3. "Sustainable forest management" is understood as the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, 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; and that does not cause damage to other ecosystems.

4. "Sustainable development" shall be considered as the improvement of the quality of life and welfare of the relevant populations within the limits of the capacity of the ecosystem by maintaining natural assets and its biological diversity for the benefit of present and future generations.
5. "Forest peoples" shall be defined as indigenous population groups who live in tribal communities and who inhabit the forest or claim it as their 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

1. Under this Regulation, the Community shall provide financial support or technical expertise for actions which support and encourage the efforts of developing countries and their regional organisations to conserve and sustainably manage their tropical forests, in the context of the sustainable development of those countries and regions.
2. The recipients of aid and partners in cooperation may include not only states and regions but decentralised authorities, regional organisations, public agencies, local or traditional communities, private industries and operators, including cooperatives and non-governmental organisations and representative associations of forest peoples, which include the conservation of tropical forests among their stated objectives or regular activities.
3. Special consideration shall be given to actions in support of the conservation of forests which are considered to be of importance for local effects such as the protection of watersheds, the prevention of soil erosion and the restoration of degraded areas and for global effects, such as climate change and loss of biological diversity.

Article 4

1. The priority given to specific actions will be determined according to the needs of each country as reflected in regional and national development and environment policies relating to forests and according to Community cooperation priorities. Particular consideration, however, shall be given to actions that promote the following:
 - (a) conservation of primary tropical forests and their biodiversity and regeneration of tropical forest which have been damaged, supported by analysis of the underlying causes of deforestation and taking into account differences between countries and regions and measures to address them;
 - (b) sustainable management of forests designated for the production of timber and other products, but excluding commercial logging operations in primary tropical forests;

- (c) the definition of a certification system for timber produced from tropical forests according to sustainable forest management principles;
 - (d) participation by and support from forest peoples in the identification, planning and implementation of actions;
 - (e) capacity-building to address the needs for training schemes for local populations, forest managers and researchers, for legislation, increased political and social support and institutional strengthening and for organisations and associations active in forest conservation
 - (f) a strategic and adaptive research policy aimed at supplying the knowledge required for the conservation and sustainable management of forests and also for the implementation of research monitoring activities in the framework of projects and programmes;
 - (g) development of buffer zones to assist the conservation or regeneration of tropical forests, as part of a broader land utilisation plan;
 - (h) development and implementation of forest management plans aimed at conserving tropical forests and promoting sustainable exploitation of timber and other forest products.
2. The Community shall require actions carried out under this regulation to be preceded by reports on their ecological, social, economic and cultural impact, with specific qualitative or quantitative objectives. Where applicable, these actions shall be evaluated with the participation of local people.
 3. The Community shall, in respect of the various Community policy areas which have a potential direct impact on the conservation of tropical forests, develop and apply the instruments required to prevent the policy pursued or planned from having a negative impact and, where possible, to contribute to the conservation of tropical forests.
 4. Actions carried out under this regulation shall be coordinated with and may provide support for national and international programmes and actions concerned with conservation of tropical forests, such as the Tropical Forest Action Plan and the International Tropical Timber Organisation, provided these programmes and actions are in accordance with the principles and objectives laid down in the present regulation.
 5. Wherever possible, operations shall be carried out within the framework of regional organisations and international programmes of cooperation in the context of a global policy on the conservation of forests.

Article 5

Cofinancing with Member States, or with multilateral, regional or other organisations shall be sought through greater coordination. As far as possible, the Community nature of the aid shall be maintained.

Article 6

Community funding shall be in the form of non-reimbursable grants.

Article 7

Financial and technical assistance may cover all foreign currency costs and local costs for carrying out projects and programmes, including, whenever necessary, integrated programmes and sectoral projects.

Maintenance and operating expenses for economic cooperation operations, training and research programmes and development projects and programmes may, in particular, be covered. However, except for training and research programmes, such expenses may be covered as a general rule only at the launching stage and in gradually decreasing amounts.

Systematic efforts shall be made to seek contributions, particularly in financial form, from partners (countries, local communities, undertakings, individual recipients) as far as their means permit and according to the nature of each operation.

The payment of taxes, duties and charges shall be excluded from Community financing.

Study costs and the short- and long-term use of experts to assist the recipients and the Commission in devising general policies, identifying and preparing operations and monitoring and evaluating them shall normally be covered by Community funds, either as part of the financing for individual operations or separately.

Article 8

Participation in invitations to tender and purchasing and other contracts shall be open on equal terms to all natural or legal persons of the Member States.

With regard to financial and technical assistance, such participation shall usually be extended to the recipient state and may also be extended, case by case, to other developing countries.

In exceptional cases which are duly justified, other countries of origin may be allowed for specific components.

Article 9

Projects and programmes for which Community funding exceeds ECU 2 million and any substantial modifications which exceed 20% of the amount initially agreed, shall be adopted according to the procedure laid down in Article 10(2).

Article 10

1. The Commission shall administer tropical forest cooperation activities.
2. The Commission shall be assisted by an advisory committee composed of Member States representatives, experts in tropical forest issues, and chaired by the representative of the Commission.

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, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

3. Where the Commission finds it necessary or appropriate to establish further procedures for the execution of relevant actions, those measures should be adopted according to procedure laid down under par. 2.

Article 11

The Commission shall submit to the European Parliament and the Council an annual report with an assessment of the implementation of this Regulation. The report shall set out the results of implementation of the budget as regards commitments and payments and presenting the projects and programmes financed during the year. The report shall contain, as far as possible, information on the funds committed at national level during the same financial year. It shall also contain specific, detailed information (undertakings, nationality, etc.) on the contracts awarded for the implementation of the projects and programmes.

Evaluation reports will be submitted to the Committee mentioned in article 10.

Article 12

This regulation shall be implemented under an approach coherent with the general principles laid down in Council Regulation No. 443/92 on financial and technical assistance to and economic cooperation with the developing countries of Latin America and Asia and in the fourth Lomé Convention and under common criteria at all stages of the project cycle from identification to evaluation.

Article 13

This regulation shall enter into force on the day following its publication in the Official Journal of the European Communities.

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

Done at Brussels



[REDACTED]

FINANCIAL STATEMENT

1. TITLE OF OPERATION: operations to promote tropical forests
2. BUDGET HEADING INVOLVED: B7-5041
3. LEGAL BASIS: Council Regulation (EC) No .../94 on operations to promote tropical forests
4. DESCRIPTION OF OPERATION
 - 4.1 General objective of operation: in the context of commitments entered into by the Community at the Rio Conference and elsewhere, the operation is intended to promote the conservation and sustainable management of tropical forests.
 - 4.2 Duration of operation and arrangements for renewal or extension: indefinite duration, but the Regulation would be updated in 1995-1996.
5. CLASSIFICATION OF EXPENDITURE OR REVENUE
 - 5.1 Non-compulsory expenditure
 - 5.2 Differentiated appropriations
6. TYPE OF EXPENDITURE OR REVENUE
 - 100% subsidy
 - Subsidy for joint financing with other sources in the public and/or private sector
 - Interest subsidy: none
 - Should the operation prove an economic success, is there provision for all or part of the Community contribution to be reimbursed? No

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (definition of unit costs)

The level of appropriations reflects requirements identified and management capabilities, within the limits of what has been made available by the budget authority; the cost of each project will be determined on a case-by-case basis, following identification and appraisal. Staffing costs will be calculated on the basis of unit pricing; equipment, operating and transport costs will be calculated at cost prices and paid out on the basis of supporting documents.

7.2 Breakdown of operation components

| Indicative breakdown | 1994 Budget n |
|--------------------------|---------------|
| - Studies | 8 |
| - Projects | 38 |
| - Publications, seminars | 4 |
| TOTAL | 50 |

7.3 Indicative schedule of appropriations

7.3.1 Schedule to be completed in the event of a proposal for a new operation

| | n 1994 | n + 1 1995 | n + 2 1996 | n + 5 and after | TOTAL |
|----------------------------------|-----------|---------------|---------------|--------------------|-------|
| Commitment appropriations | 50 | 50 | 50 | - | |
| Payment appropriations | | | | | |
| n 1994 | 15 | | | - | |
| n + 1 1995 | 10 | 15 | | - | |
| n + 2 1996 | 25 | 35 | 25 | - | |
| n + 5 and after | | | 25 | | |
| TOTAL | 50 | 50 | 50 | - | |

State whether amounts are in ECU at constant or current values (basis of calculation)

8. WHAT ANTI-FRAUD MEASURES ARE PLANNED (AND RESULTS OF SUCH MEASURES)?

Recipients must accept the general conditions applicable to contracts, including an audit by the Commission and the Court of Auditors.

9. COST-EFFECTIVENESS ANALYSIS

9.1 Specific quantifiable objectives, target population

- specific objectives: linked to general objective: the conservation and sustainable management of tropical forests involve the upgrading of operational, training and research capacity, in close collaboration with the national authorities and local bodies concerned;
- target population: directly, local communities living in or near forests; indirectly, via global effects (biodiversity, carbon reserves), people throughout the world. Direct recipients include not only states and regions but also decentralized authorities, regional bodies, public-sector agencies, local or traditional communities and NGOs.

9.2 Grounds for the operation

- Need for support from Community budget: the Community-financed operation will back up Member States' measures in countering the threat to tropical forests by providing support for the efforts of developing countries themselves.
- Choice of this operation:
 - (a) this Regulation is a key component of the strategy for tropical forests, which also includes the development of trade incentives and encouragement for investment and technology transfers;
 - (b) the operations will be carried out consistently with ALA development programmes and the provisions of the Lomé Convention;
 - (c) the planned cooperation measures should act as catalysts, particularly as pilot schemes and demonstration projects will be developed alongside specific measures to help tropical forests;
- Main factors of uncertainty which could affect the specific results of the operation: delayed awareness of the importance of conserving tropical forests and poor operational resources in the developing countries.

9.3 Monitoring and evaluation of the operation

- Performance indicators selected: the main indicators are:
 - area of tropical forest covered
 - establishment of protected zones
 - development and implementation of management plans and operational capacity
 - participation by local communities
 - consistency with measures taken at local, national and international level.

- Details and frequency of planned evaluation: operations will be monitored by the Commission in close cooperation with external delegations, using:
 - periodical reports
 - inspection visits
 - individual mid-term evaluations for some pilot projects
 - ex-post evaluation of representative projects.

- Assessment of results
The proposed Regulation requires the Commission to submit an annual report with an assessment of implementation.

DOCUMENTS

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