



COMMISSION OF THE EUROPEAN COMMUNITIES

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**PRELIMINARY DRAFT AMENDING BUDGET N° 6
TO THE GENERAL BUDGET 2007**

**STATEMENT OF EXPENDITURE BY SECTION
Section III - Commission**

(presented by the Commission)

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Having regard to:

- the Treaty establishing the European Community, and in particular Article 272 thereof,
- the Treaty establishing the European Atomic Energy Community, and in particular Article 177 thereof,
- the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹, as last amended by Council Regulation (EC, Euratom) No 1995/2006², and in particular Article 37 thereof,

The European Commission hereby presents to the budgetary authority the Preliminary Draft Amending Budget No 6 to the 2007 budget for the reasons set out in the explanatory memorandum.

¹ OJ L 248, 16.9.2002, p. 1.
² OJ L 390, 30.12.2006, p. 1.

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STATEMENT OF EXPENDITURE BY SECTION

The statement of expenditure by section is forwarded separately via the SEI-BUD system. An English version of the expenditure by section is attached for information as a budgetary annex.

1. INTRODUCTION

The Preliminary Draft Amending Budget No 6 to the Budget for 2007 (PDAB 6/2007) covers the following points:

- The mobilisation of the EU Solidarity Fund for an amount of EUR 172,2 million in commitment appropriations relating to a major storm in Germany in January 2007, and a tropical cyclone in France (La Réunion) in February 2007. The corresponding payment appropriations will be redeployed.
- The creation of a new budget article 14 03 03 to support financial obligations stemming from the accession of the European Communities to the World Customs Organisation.
- The mobilisation of new funds for an amount of EUR 35,5 million in commitment appropriations on article 26 01 50 07 to pay damages to applicants following the Court of First Instance final judgements in Cases T-45/01 and T-144/02, Sanders and others and Eagle and others v Commission on 12 July 2007. The corresponding payment appropriations will be redeployed.
- The creation of a new budget article 03 03 02 Damage requests resulting from legal procedures against the Commission's decisions in the field of competition.
- The integration into the budget 2007 of the necessary technical adjustments following the adoption by the Council of Decision 2007/162/EC establishing the Civil Protection Financial Instrument for the period 2007-2013³; and the adoption by the European Parliament and the Council of Regulation (EC) No 614/2007 concerning the Financial Instrument for the Environment (LIFE+)⁴.

In summary the overall needs requested in PDAB 6/2007 amount EUR 207,7 million in additional commitments. The corresponding EUR 207,7 million in payment appropriations will be sought through redeployment.

2. MOBILISATION OF THE EU SOLIDARITY FUND

On 18 January a major storm hit large parts of central Europe causing severe damage in a number of countries. On 24 February 2007 the tropical Cyclone "Gamède" hit the island of La Réunion causing significant damage. Within the ten week deadline set by Article 4 of Council Regulation (EC) No 2012/2002⁵, Germany and France applied for financial assistance from the EU Solidarity Fund relating to the major storm and tropical cyclone respectively.

The Commission services have carried out a thorough examination of the applications in accordance with Regulation (EC) 2012/2002 and in particular with Articles 2, 3 and 4 thereof.

The most important elements of the assessments can be summarised as follows:

³ OJ L 71, 10.3.2007, p. 9.

⁴ OJ L 149, 9.6.2007, p. 1.

⁵ OJ L 311, 14.11.2002, p. 3.

2.1 Germany: Storm Kyrill

- (1) The application was presented to the Commission on 29 March 2007 within the deadline of 10 weeks after the first damage was recorded on 18 January 2007. The application was completed on 12 July 2007.
- (2) The disaster is of natural origin. The total direct damage amounts to EUR 4 687,3 million. As this amount exceeds the threshold of EUR 3 267 million (i.e. EUR 3 billion in 2002 prices) the disaster qualifies as a “major natural disaster” and falls thus within the main field of application of Regulation (EC) No 2012/2002. Total direct damage is the basis for the calculation of the amount of financial assistance. The financial assistance may only be used for essential emergency operations as defined in Article 3 of the Regulation.
- (3) According to the German authorities, the storm caused significant losses in infrastructure (transport, electricity, telecommunications), forestry, businesses and private households. In the most affected regions the state of emergency was declared. Eleven people lost their lives as a direct consequence of the storm. Road and train networks were blocked by felled trees and power cables, which lead to a complete shut-down of the railway traffic in the whole of Germany and required extensive cleaning-up operations. The disaster caused severe damage to forests, where it totally or partially destroyed an area of 87 000 ha causing damage of EUR 1,9 billion in forestry alone. The disaster also caused significant direct damage to private households and businesses which, based on estimates provided by the insurance industry, amount to EUR 2,4 billion. The application contains a break-down of damages, including in particular a detailed description of forest damages for each Land. In the application, the German authorities estimated the total direct damage at EUR 4 748,1 million. However, as the German authorities could not exclude that indicated damages to the electricity industry of EUR 60,8 million were also included in the private damage estimates by the insurance industry, the Commission deducted the damage amount for the electricity industry from the total damages in order to exclude any possible double-counting. Consequently, the total amount of direct damage to be taken into account by the Commission amounts to EUR 4 687,3 million
- (4) The cost of essential emergency operations eligible under Article 3(2) of Regulation (EC) No 2012/2002 has been estimated by the German authorities at EUR 1 025 million and has been broken down by type of operation. The largest share of operations concerns cleaning up operations in the disaster stricken area and the immediate restoration to working order of transport infrastructure. Based on the information from the German authorities, it is evident that the real cost of eligible operations by far exceeds the amount of a possible grant from the Solidarity Fund. The types of operation effectively to be financed from the Fund will be clearly defined in the Implementation Agreement.
- (5) In addition to the Solidarity Fund aid, the German authorities envisage to use the European Agricultural Fund for Rural Development (EAFRD) programmes (when adopted by the Commission) for reforestation, restoration of road infrastructure and forest protection measures.
- (6) The German authorities confirmed that the eligible operations referred to under point 4 above are not covered by insurance.

In conclusion, for the reasons set out above, it is proposed to accept the application made by Germany relating to the storm in January 2007 as a “major disaster” and to propose the mobilisation of the Solidarity Fund.

2.2 France (La Réunion): Tropical Cyclone Gamède

- (1) The application was presented to the Commission on 4 May 2007 within the deadline of 10 weeks after the first damage was recorded on 24 February 2007. Updated information on damage figures was received on 29 June, 12 and 17 July 2007.
- (2) The disaster is of natural origin. The French authorities estimate the total direct damage at EUR 211,6 million. This amount represents 0,01% of France's GNI and 6,5% of the normal threshold applicable to France for mobilising the Solidarity Fund of EUR 3,267 billion (i.e. EUR 3 billion in 2002 prices). Total direct damage is the basis for the calculation of the amount of financial assistance. The financial assistance may only be used for essential emergency operations as defined in Article 3 of the Regulation.
- (3) As total damage remains below the normal threshold the application is based on the so-called “extraordinary regional disaster” criterion laid down in Article 2(2), final subparagraph of Regulation (EC) No 2012/2002 setting out the conditions for mobilising the Solidarity Fund “under exceptional circumstances”. Under this criterion, a region can exceptionally benefit from assistance from the Fund where that region has been affected by an extraordinary disaster, mainly a natural one, affecting the major part of its population, with serious and lasting repercussions on living conditions and the economic stability of the region. The Regulation calls for special focus on remote and isolated regions such as the insular and outermost regions defined in Article 299(2) of the Treaty.
- (4) As set out in the Annual Report on the Solidarity Fund (2002-2003) the Commission considers that, in order for the specific criteria for regional disasters to be meaningful in the national context, a distinction needs to be drawn between serious regional events and those that are merely local. In accordance with the principle of subsidiarity the latter are the responsibility of the national authorities, while the former can be considered for support under the Solidarity Fund.
- (5) The French authorities justify their application with the special situation of La Réunion which is the most distant and at the same time the most populated ultra-peripheral region of the Union. Evidence is presented to show that because of La Réunion's isolated location and its already critical socio-economic situation the impact and lasting repercussions of the damage caused by the cyclone are much more serious than would otherwise be the case.
- (6) The French authorities reported serious damage to infrastructures, in particular to roads, water supply and telecommunications (nearly EUR 100 million), as well as in agriculture and fisheries (over EUR 61 million).
- (7) According to the French authorities the disaster affected - to varying degrees - the entire population of La Réunion, some 784 000 inhabitants. In 21 of the island's 24 communes a state of emergency (*état de catastrophe naturelle*) had to be declared.

- (8) The evidence presented by the French authorities to demonstrate serious and lasting repercussions on living conditions and the economic stability of the region is mostly based on the problems arising from the damage caused to some major roads, in particular the destruction of a bridge on the single most important road connecting the two economic poles in the north and the south of the island. While a provisional passage of the river has meanwhile been put in place the full repair of the bridge is expected to last into next year. It is argued that the slow down of traffic on this route to which hardly any alternatives exist affects some 100 000 people (1/3 of the working population) in their daily movement and has a serious impact on the economic activity. The French authorities expect this to negatively affect employment and economic growth including the expected closure of a number of SMEs. At over 29%, the unemployment rate is already very high.
- (9) Moreover, the storm has lead to important income losses in fisheries and particularly in the agricultural sector (sugar cane and vegetable production) representing over 12 % of the annual turnover. In tourism the figures presented show a slowdown over the past years, mostly due to the Chicungunya epidemic (a virus transmitted by mosquitoes). The effects of the cyclone (i.e. direct damage in tourism infrastructures of EUR 3,3 million plus income losses from cancellations) are expected to considerably add to this trend.
- (10) The cost of essential emergency operations eligible under Article 3(2) of Regulation (EC) No 2012/2002 has been estimated by the French authorities at EUR 25 million and has been broken down by type of operation.
- (11) France does not intend to use financing from other Community Instruments for purposes related to the cyclone. Structural Funds money under the 2000-2006 programmes is no longer available. Money from the new period 2007-2013 is not yet available.
- (12) The French authorities confirmed that the eligible operations referred to under point 9 above are not covered by insurance.

In conclusion, for the reasons set out above, it is proposed to accept the application made by France relating to the tropical cyclone Gamède as an “extraordinary regional disaster” and to propose the mobilisation of the Solidarity Fund.

2.3 Financing

The total annual budget available for the Solidarity Fund is EUR 1 billion. In 2007, EUR 24 370 114 have already been earmarked for earlier applications leaving EUR 975 629 886 available.

As solidarity was the central justification for the creation of the Fund, the Commission takes the view that aid from the Fund should be progressive. That means that, according to previous practice, the portion of the damage exceeding the threshold (0,6 % of the GNI or EUR 3 billion in 2002 prices, whichever is the lower amount) should give rise to higher aid intensity than damage up to the threshold. The rate applied in the past for defining the allocations for major disasters is 2,5 % of total direct damage under the threshold and 6 % above. It is proposed to apply the same percentages in this case.

The Commission's proposed allocation under the Fund is based on the information made available by the applicants, and is as follows:

(EUR)

	Direct damage	Amount based on 2,5 %	Amount based on 6 %	Total amount of aid proposed
Germany, storm Kyrill	4 687 300 000	81 665 725	85 240 260	166 905 985
France/La Réunion, cyclone Gamède	211 600 000	5 290 000	0	5 290 000
Total				172 195 985

This amount of compensation will leave at least 25 % of the European Union Solidarity Fund available for allocation during the last quarter of the year, as required by Article 4(2) of Regulation (EC) 2012/2002.

However, taking into account the identification of excess appropriations in line 13 04 01 Cohesion Fund – completion of previous projects, there will be no need of fresh payment appropriations for financing the EU Solidarity Fund payments for Germany and France (La Réunion). An amount of EUR 172,2 million would thus be allocated from budget line 13 04 01 to budget line 13 06 01 to cover the corresponding needs related to the mobilisation of the EU Solidarity Fund.

3. WORLD CUSTOMS ORGANISATION

The Council of the European Union decided on 13 March 2001 that the European Community should seek membership of the World Customs Organisation. It authorised the Commission to negotiate the membership of the European Community with the World Customs Organisation. Based on this Council decision, the European Community submitted a request to the World Customs Organisation to become a full member in April 2001.

The issue of membership was discussed during the 2001 June sessions of the Council of the World Customs Organisation as well as the subsequent World Customs Organisation meetings of December 2001 and June 2002. Following contacts at political level, the request was presented again at the meeting of the Council of the World Customs Organisation in June 2006, and in December 2006, the Council of the World Customs Organisation and subsequently the Policy Commission of the World Customs Organisation examined the legal, voting and budgetary issues pertinent to the membership of the European Community in the World Customs Organisation.

Currently the European Community participates in those World Customs Organisation bodies which are created by other international conventions or agreements to which it is already a party (e.g. Valuation Agreement, Harmonised System, Revised Kyoto Convention, etc.). In the case of other bodies and meetings it can only participate as observer and in some cases a special invitation is required (e.g. Policy Commission meeting). As member of the WCO, the European Community will be entitled to participate fully in all World Customs Organisation bodies which are open to general membership and to be elected in bodies with elected membership.

The European Community will pay an annual contribution to the World Customs Organisation to strengthen the work of the Organisation and to cover additional administrative expenses. The European Community contribution will be such that the combined EU Member States and European Community contributions to the World Customs Organisation reflect the weight and importance of the European Community in international trade and customs matters.

On 19 June 2007, the Council took the Decision on the exercise of rights and obligations akin to membership ad interim by the European Community in the World Customs Organisation. The annual Council of the World Customs Organisation of 29 June 2007 adopted the decision to amend the Convention establishing a Customs Co-operation Council to enable accession of customs and economic unions inter alia the European Community.

It is proposed to create the following new budget article: 14 03 03 - Membership of international organisations in the field of customs and tax, with a token entry ("p.m."). The financial obligation stemming from the accession of the European Community to the World Customs Organisation as of 1 July 2007 for half year is estimated at EUR 0,5 million. This amount will be allocated by means of an internal transfer.

4. LEGAL SETTLEMENTS

4.1 Court of First Instance Ruling

On 12 July 2007 the Court of First Instance ("CFI") gave the final judgements in Cases T-45/01 and T-144/02, Sanders and others, and Eagle and others v Commission. The two judgments require the Commission to pay substantial amounts of damages to over 100 applicants, who were former contractual staff at the JET joint undertaking and had claimed damages for not having been recruited as Euratom staff. These are the final judgments following interlocutory judgments of 2004 which upheld the principle of the applicants' claims, but limited them to five years, following the Commission's arguments on that point.

The judgements ordered the parties to seek agreement on the amounts. The CFI has now ruled on the last issues that could not be agreed between the parties. The result is that the CFI accepts the Applicants' claims to damages, as calculated following the interlocutory judgments, for the five year period allowed under those judgments. Although the Commission might still appeal this would not have a suspensive effect and the Commission would continue to be bound by the obligation to pay the amounts ordered by the CFI.

The Commission has calculated the damages using the interest rate quoted in the operative part of the judgment (which was agreed by the parties, on the basis of various Court judgments of the period around 1999-2000). The total amount of damages for the two cases stands at EUR 47 805 000 if the sums are liquidated on 31 October 2007; at EUR 47 951 000 if the sums are liquidated on 30 November 2007. The obligation to pay interest continues until payment, the interest rate retained by the Court is 5,25 %, so there is some urgency in making the payments.

Considering that the judgements concern staff and administrative processes, the Commission proposes that damages should be liquidated from budget item 26 01 50 07 Damages in heading 5 of the financial framework.

Appropriations for budget item Damages stand at only EUR 250 000 in Budget 2007.

The Commission has duly scrutinised the possibilities to replenish the budget item through a transfer of existing appropriations in heading 5. It has found that EUR 12,5 million can be mobilised through redeployment of existing commitment appropriations.

The request of additional commitment appropriations for budget item 26 01 50 07 can therefore be limited to EUR 35,5 million to reach the necessary EUR 48 million package, whereas heading 5 of the multi-annual financial framework has an available margin of EUR 172,6 million under its 2007 ceiling. The full amount will be entirely committed and paid in 2007. Payment appropriations will be made available through redeployment from budget items 02 04 01 01 Space research and 02 04 01 02 Security research. The needs for payment appropriations for "Security and space research" activities are lower than originally foreseen, due to the late adoption of the FP7 legal base. Given the time needed from the moment of the publication of the call for research proposals to the signature of the contracts, lower than anticipated amounts will be paid in 2007, and part of the pre-financing will be postponed to 2008.

In parallel to this Draft Amending Budget the Commission is introducing a request for a transfer of appropriations for EUR 12.5 million in order to redeploy existing credit commitments and replenish budget item 26 01 50 07.

4.2 Competition Policy

As a prudential measure, it is proposed that a new budget article 03 03 02 Damage requests resulting from legal procedures against the Commission's decisions in the field of competition should be created, to take into account the possibility of budgetary implications stemming from rulings of the Court of Justice or the Court of First Instance. The line will be endowed with a token entry ("p.m.").

The present article is intended to cover any expenditure originated by damages awarded by the Court to claimants and resulting from legal proceedings against Commission's decisions in the field of competition.

As a reasonable estimate of the financial impact on the EU budget cannot be established beforehand, a token entry ("p.m.") appears in this article. If necessary, the Commission will propose to make available the appropriations related to actual needs by means of transfers or through a preliminary draft amending budget.

5. ADOPTION OF LEGISLATION IN THE FIELD OF ENVIRONMENTAL POLICY

Adaptations to the budget remarks need to be made in order to integrate into the budget 2007 the necessary technical adjustments following the adoption of the Council Decision 2007/162/EC establishing the Civil Protection Financial Instrument for the period 2007-2013⁶. The changes affect the following budget articles/ items: 07 01 04 02, 07 04 01 and 19 06 05.

⁶ OJ L 71, 10.3.2007, p. 9.

Technical adjustments are also necessary following the adoption by the European Parliament and the Council of Regulation (EC) No 614/2007 concerning the Financial Instrument for the Environment (LIFE+)⁷, as well as the transitional measures approved by the budgetary authority through the Joint Statement adopted as part of the 2007 budget procedure. The changes affect the following budget articles items: 07 01 04 01 and 07 03 07.

⁷ OJ L 149, 9.6.2007, p. 1.

SUMMARY TABLE BY HEADING OF THE FINANCIAL FRAMEWORK

Financial framework Heading/subheading	2007 Financial framework		Budget 2007 + AB 1-5/2007		PDAB 6/2007		Budget 2007 + AB 1-5/2007 +PDAB 6	
	CA	PA	CA	PA	CA	PA	CA	PA
1. SUSTAINABLE GROWTH								
1a. Competitiveness for growth and employment	8 918 000 000		9 367 547 511	7 046 794 397		-35 500 000	9 367 547 511	7 011 294 397
1b. Cohesion for growth and employment	45 487 000 000		45 486 784 504	37 790 265 808		-172 195 985	45 486 784 504	37 618 069 823
Total Margin⁸	54 405 000 000		54 854 332 015 50 667 985	44 837 060 205			54 854 332 015 50 667 985	44 629 364 220
2. PRESERVATION AND MANAGEMENT OF NATURAL RESOURCES								
Of which market related expenditure and direct payments	45 759 000 000		42 713 661 000	42 437 641 756			42 713 661 000	42 437 641 756
Total Margin	58 351 000 000		56 250 230 036 2 100 769 964	54 718 545 736			56 250 230 036 2 100 769 964	54 718 545 736
3. CITIZENSHIP, FREEDOM, SECURITY AND JUSTICE								
3a. Freedom, Security and Justice	637 000 000		623 833 000	473 683 000			623 833 000	473 683 000
3b. Citizenship	636 000 000		647 603 114	728 272 766	+172 195 985	+172 195 985	819 799 099	90 468 751
Total Margin⁹	1 273 000 000		1 271 436 114 25 934 000	1 201 955 766			1 443 632 099 25 934 000	1 374 151 751
4. EU AS A GLOBAL PARTNER¹⁰	6 578 000 000		6 812 460 000 67 000	7 352 746 732			6 812 460 000 67 000	7 352 746 732
5. ADMINISTRATION¹¹	7 039 000 000		6 942 364 030 172 635 970	6 942 264 030	+35 500 000	+35 500 000	6 977 864 030 137 135 970	6 977 764 030
6. COMPENSATION	445 000 000		444 646 152 353 848	444 646 152			444 646 152 353 848	444 646 152
TOTAL Margin	128 091 000 000	123 790 000 000	126 575 468 347 2 350 428 767	115 497 218 621 8 368 781 379	+207 695 985	+0	126 783 164 932 2 314 928 767	115 497 218 621 8 368 781 379

⁸ The European Globalisation adjustment Fund (EGF) is not included in the calculation of the margin under Heading 1a.

⁹ The European Union Solidarity Fund (EUSF) amount is entered over and above the relevant headings as foreseen by the IIA of 17 May 2006 (OJ C 139 of 14.6.2006)

¹⁰ The 2007 margin for heading 4 does not take into account the appropriations related to the Emergency Aid Reserve (EUR 234,5 million).

¹¹ For calculating the margin under the ceiling for heading 5, account is taken of the footnote (1) of the financial framework 2007-2013 for an amount of EUR 76 million for the staff contributions to the pensions scheme.