



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 October 2005

**Interinstitutional File:
2004/0218 (COD)**

**11904/1/05
REV 1**

LIMITE

**ENV 384
CADREFIN 160
FORETS 20
CODEC 691**

REVISED NOTE

from: General Secretariat
to: Delegations

No. prev. doc.: 10814/05 CODEC 591 ENV 343 CADREFIN 146 FORETS 18
No. Cion prop.: 13071/04 ENV 528 CADREFIN 60 FORETS 31 CODEC 1080 - COM(2004) 621
final + ADD 1

Subject : Proposal for a Regulation of the European Parliament and of the Council
concerning the Financial Instrument for the Environment (LIFE+)

The Annex to this note contains an annotated draft of the above-mentioned proposal, for the meeting of the Working Party on the Environment on 13 October 2005.

Underlining indicates changes of substance, while "[...]" represents deletions.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Concerning the Financial Instrument for the Environment (LIFE +)¹

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^{**},

Having regard to the Opinion of the Committee of the Regions^{***},

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

Whereas:

[Recitals omitted.]

HAVE ADOPTED THIS REGULATION:

¹ All delegations have a general scrutiny reservation.
In addition, DE/FR/NL/AT/PL/SE/UK have general financial reservations and DK/MT/UK a Parliamentary scrutiny reservation.

^{*} OJ C 12, 18.1.2005, p. 25.

^{**} Opinion adopted on 7 April 2005 (not yet published in the Official Journal).

^{***} Opinion adopted on 14 April 2005 (not yet published in the Official Journal).

Article 1

Purpose and definitions

1. A financial instrument for the environment, hereinafter referred to as "LIFE+", is hereby established.
2. The general objective of LIFE+ shall be to contribute to [...] the implementation, updating and development of Community environment policy and of environmental legislation, in particular as regards the integration of the environment into other policies [...], thereby contributing to sustainable development.
3. In particular, LIFE+ shall support the implementation of the 6th EAP, including the thematic strategies, and finance measures with European added value in Member States.
4. For the purpose of this Regulation:
 - (a) "6th EAP" shall mean the Sixth Community Environment Action Programme laid down by Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 *;
 - (b) "Financial Regulation" shall mean Council Regulation (EC/Euratom) No 1605/2002 of 25 June 2002 **;

* OJ L 242, 10.9.2002, p. 1.

** OJ L 248, 16.9.2002, p. 1.

- (c) "national agencies" shall 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 5.²

Article 2

Scope and specific objectives^{*}

1. LIFE+ shall consist of three components: LIFE+ Nature and Biodiversity³, LIFE+ Environment Policy and Governance and LIFE+ Information and Communication.
2. Measures financed by LIFE+ shall support the achievement of the general objective set out in Article 1(2). All measures financed by LIFE+ shall satisfy the eligibility criteria set out in Annex I, to ensure that they provide European added value. Where possible, measures financed by LIFE+ shall promote synergies between different priorities under the 6th EAP and promote integration.

² DK/DE/FR/SE believe that the programming approach set out in Articles 4 and 5 is not appropriate. In their view, it would be preferable to select projects, and to manage the LIFE+ budget, at Community level. They consider that the proposed approach, and the delegation of a significant part of budget implementation to national agencies, would neither guarantee European added value nor ensure that the best projects received funding. They fear that it would lead to additional bureaucracy and administrative costs.

^{*} HU/NL/AT also have doubts about the proposed approach.
Article 2 is partly consistent with the aims of European Parliament first-reading amendments 12 and 42, in that it provides for a separate component for nature and biodiversity and lays down criteria to ensure European added value.

³ Cion has a reservation on the creation of a separate component for nature and biodiversity.

3. The specific objectives of LIFE+ Nature and Biodiversity shall be:
- (a) to contribute to the enhanced implementation of Community policy and legislation on nature and biodiversity, in particular Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, including at the local and regional level; and to support the further development and implementation of the Natura 2000 network, including coastal and marine sites;⁴
 - (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 approaches to the monitoring and assessment of nature and biodiversity and the factors, pressures and responses that impact on it, including 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, broadening stakeholder involvement, including that of non-governmental organisations, in consultations on and the implementation of nature and biodiversity policy and legislation;
 - (e) to support forest fire prevention through public awareness campaigns and training.

⁴ ES/PT/SI request the deletion of the word "enhanced" before "implementation".
FR wants the text to make clear that LIFE+ would not finance routine management or monitoring measures. PT/SI oppose this.
BE/ES/PT want to extend the reference to coastal and marine sites to refer to species too.
DK/SI/SE suggest deleting the explicit reference to coastal and marine areas.

- 4.⁵ 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 and instruments;⁶
 - (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, broadening stakeholder involvement, including that of non-governmental organisations⁷, in policy consultation and implementation.

⁵ ES suggests restricting this component to innovation and demonstration measures.

⁶ DE/FR/IT/LV/NL/AT/SI/SE want to include a reference to innovative technologies and methods, at least until the scope of the proposed Competitiveness and Innovation Framework Programme (CIP) becomes clearer.

⁷ PT requests an explicit reference to both NGOs and the private sector.

5. The specific objectives of LIFE+ Information and Communication shall be:
- (a) to disseminate information and raise awareness on environmental issues;
 - (b) to provide support for accompanying measures (such as information, communication actions and campaigns, and conferences).

[...] ⁸

6. Annex II contains an indicative list of eligible themes and measures.

Article 3

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 through specific forms and agreements, such as framework partnership agreements and participation in financial mechanisms and funds. They may take the form of co-funding of operating or action grants. For action grants, the maximum rate of co-financing shall be as specified in Annex III, Part A. ⁹ Operating grants to bodies pursuing objectives of general European interest may not be subject to the degressivity provisions of the Financial Regulation.

⁸ A recital could clarify that measures financed by LIFE+ may contribute to the achievement of the specific objectives of more than one component, involve the participation of more than one Member State and contribute to the development of strategic approaches to meeting environmental objectives.

⁹ Cion has a reservation on the reference to the maximum co-financing rate, preferring to leave this to the multi-annual strategic programmes. Inclusion of the reference is partly consistent with European Parliament first-reading amendment 13.

3. In the case of public procurement contracts, Community funds may cover the purchase of services and goods. This may include, *inter alia*, expenditure on information and communication, preparation, implementation, monitoring, checking and evaluation of projects, policies, programmes and legislation.
4. If a Member State so decides, public administrations' staff costs shall be eligible for Community co-financing on the conditions set out in Annex III, Part B.¹⁰

Article 4

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 set out in Articles 1 and 2. They shall include indicative allocations between Member States, in accordance with the criteria set out in Annex IV, and indicate those parts of the budget subject to central direct and delegated management in accordance with Article 5.
2. 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;
 - (b) outline specific national objectives;

¹⁰ EE/EL/IT/CY/LV/HU/MT/PT/SI support the inclusion of Article 3(4). DE/SE oppose the use of LIFE+ funds to finance administrative costs. ES/FR/NL/AT/FI expressed doubts, but were still considering the issue. Cion explained that similar arrangements existed in other Community financial instruments (particularly the structural funds and the proposed Decision establishing an integrated action programme in the field of lifelong learning).

- (c) describe the measures to be financed and how they meet the eligibility criteria set out in Annex I;
 - (d) provide cost estimates; and
 - (e) describe the proposed monitoring framework.
3. The Commission shall consult Member States on the draft multi-annual strategic programmes within the Committee referred to in Article 12(1). The programmes shall be adopted as set out in Article 15.

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.

4. 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 as set out in Article 15.

Member States shall submit draft national annual work programmes for 2007 to 2010 to the Commission as soon as possible, and no later than 3 months after the adoption of the first multi-annual strategic programme.¹¹

¹¹ Some delegations requested further clarification on the form and content of draft national annual work programmes and the timetable for their submission and for submitting any necessary updates (see also Article 15). There were also questions about the procedures that the Commission would follow to convert the draft national annual work programmes received from Member States into the final programmes adopted through comitology.

Article 5

Financial procedures and budget delegation

1. The Commission shall implement this Regulation in accordance with the Financial Regulation.
2. The Commission may, in agreement with the Member State concerned, decide to entrust part of implementation of the budget to national agencies on the basis of the provisions laid down in Article 54(2)(c) of the Financial Regulation and in accordance with the selection criteria set out in Annex V.

Article 6

Beneficiaries

The LIFE+ programme shall be open to public and/or private bodies, actors and institutions.

Article 7

Participation of third countries

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

- 1) EFTA States which have become members of the European Environment Agency in accordance with Council Regulation (EC) No 933/1999 of 29 April 1999^{*};
- 2) candidate countries which have applied to become Members of the European Union;
- 3) western Balkan countries included in the Stabilisation and Association process.

^{*} OJ 117, 5.5.1999, p. 1. Regulation as last amended by Regulation (EC) No 1641/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 1).

Article 8

Complementarity between financial instruments *

Operations financed under this Regulation shall not fall within the main scope and eligibility criteria of, nor 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 of this Regulation shall provide the Commission with information about funding received from the Community budget and of ongoing applications for funding. Synergies and complementarity shall be sought with other Community instruments.

Article 9

Duration and budgetary resources

1. This Regulation shall be implemented starting on 1 January 2007 and ending on 31 December 2013.
2. The financial framework for the implementation of this instrument shall be set at [EUR 2 190 million] for the period from 1 January 2007 to 31 December 2013 (seven years).
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 perspectives.
- [4. At least [x %] of the budgetary resources for LIFE+ shall be allocated to measures to support the conservation of nature and biodiversity.]¹²

* This Article is consistent with the first part of European Parliament first-reading amendment 23.

¹² Presidency suggestion for discussion.

Article 10

Monitoring

1. For any measures 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 measures. *
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 may carry out on-the-spot checks, including sample checks, on measures financed under LIFE+.
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 audits by the Court of Auditors, if necessary on-the-spot.
4. For a period of five years following the last payment in respect of any action, the beneficiary of financial assistance shall keep available for the Commission all supporting documents regarding expenditure on the action.
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 and also the timetable for payments.
6. The Commission shall take every other step necessary to verify that measures financed are carried out properly and in compliance with the provisions of this Regulation and the Financial Regulation.

* Read together with Article 15, this paragraph is consistent with the aims of European Parliament first-reading amendment 27.

Article 11

Protection of Community financial interests

1. The Commission shall ensure that, when measures financed under the present 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 effective, proportional and dissuasive penalties, in accordance with Council Regulations (EC, Euratom) No 2988/95 and (Euratom, EC) No 2185/96, and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council.
2. For Community measures financed under LIFE+, the notion of irregularity 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 an action 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 support in question, or if it transpires that, without Commission approval having been sought, the action has been subjected to a change which conflicts with the nature or implementing conditions of the project.
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 an action, the Commission shall request that the beneficiary 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 12
Committee¹³

1. The Commission shall be assisted by a committee, the LIFE+ Committee, composed of representatives of Member States and chaired by the representative of the Commission.
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.

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.

¹³ Paragraph 2 provides for the use of the regulatory procedure, while paragraph 3 provides for the use of the management procedure. Article 15 specifies which decisions are to be taken through which procedure.

Cion has a reservation on the use of the regulatory procedure.

DE/PL prefer the use of the regulatory procedure for all decisions.

PT argues that the Commission should consult the habitats committee on issues relating to nature and biodiversity. Cion said that it would only be possible to consult one committee, since programmes would be adopted as a single decision. However, it should be possible to provide relevant information to the habitats committee.

Article 13
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 12(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 rules 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 environmental 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.

* This Article is consistent with European Parliament first-reading amendments 32 and 33.

Article 14

Simplification and consolidation

1. With a view to simplification and consolidation, this Regulation repeals and replaces the following instruments: Council Regulation (EEC) No 1973/92 (LIFE) and Council Regulation (EC) No 1404/96 * (LIFE II); Regulation (EC) No 1655/2000 of the European Parliament and of the Council (LIFE III), and its extension; Decision 1411/2001/EC of the European Parliament and of the Council ('the Urban Programme'); Decision 466/2002/EC of the European Parliament and of the Council (the 'NGO programme'); and Regulation (EC) No 2152/2003 of the European Parliament and of the Council (Forest Focus).
2. Measures started before 31 December 2006 pursuant to the instruments referred to above shall continue to be governed until their completion by these instruments. The committees provided for in these instruments shall be replaced by the Committee referred to in Article 12 of this Regulation. This Regulation shall fund any obligatory monitoring and evaluation required under those instruments following their expiry.

* OJ L 181, 20.7.1996, p. 1.

Article 15

Implementing decisions

1. The following implementing decisions shall be taken in accordance with the procedure referred to in Article 12(2):
 - (a) to adopt and, if necessary, amend multi-annual strategic programmes drawn up in accordance with Article 4(1);
 - (b) to adopt national annual work programmes based on drafts that Member States have submitted in accordance with Article 4(2);
 - (c) to amend Annexes II, IV or V to this Regulation; 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 12(3):
 - (a) if circumstances so require, to amend national annual work programmes during the period of their application;
 - (b) to specify the format, content and submission dates for draft annual work programmes for the purposes of Article 4(2);
 - (c) to determine the form, content and recipients of the reports referred to in Article 10(1); and
 - (d) to establish indicators to assist the monitoring of measures financed by LIFE+.

Article 16

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*.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Eligibility Criteria *

1. Measures financed by LIFE+ shall meet the following criteria. They shall:
 - (a) support the implementation, updating or development of Community environment policy or environmental legislation, aiming at a high level of protection of the environment and thereby contributing to sustainable development; and
 - (b) be technically and financially coherent, feasible and have a leverage or multiplier effect; and
 - (c) go beyond the minimum requirements of Community legislation, where relevant.

2. In addition, to ensure European added value, measures proposed in annual national work programmes shall meet at least one of the following criteria. They shall:
 - (a)¹⁴ be innovative or demonstrative at Community level, including development or dissemination of best-practice techniques, know-how or technologies; and/or
 - (b) involve trans-national co-operation.

* This new Annex is partly consistent with the aim of European Parliament first-reading amendments 14 and 34.

¹⁴ BE/DK/EE/ES/IT/HU/SI/SK/PL/PT/FI consider that this criterion would place unjustified restrictions on the financing of measures related to Natura 2000 sites and other measures related to nature and biodiversity.

Indicative Themes and Measures Eligible for Funding*

1. Themes

In view of the objectives laid down in Articles 1 and 2, funding could be provided, *inter alia*, to support the implementation of the priorities of the 6th EAP, namely:

- from the **Nature and Bio-diversity** component:
 - = the conservation of nature and biodiversity in order to contribute to halting the loss of biodiversity by 2010, the enhanced protection of Community priority species and habitats of Community interest and the development and further implementation of the NATURA 2000 network, including coastal and marine sites;¹⁵
 - = monitoring of forests and [...] forest fire prevention measures (public awareness campaigns and training of agents participating in forest fire prevention initiatives);
- from the **Environment Policy and Governance** component:
 - = climate change: the European Climate Change Programme (and any successor);
 - = environment and health: including the Environment and Health Action plan, the Water Framework Directive, chemicals, Clean Air for Europe (CAFÉ) and the Marine, Soil, Urban and Pesticides Thematic Strategies;
 - = sustainable use of resources: the resources and waste prevention and recycling thematic strategies, sustainable production and consumption strategies;

* Annex II is partly consistent with the aims of European Parliament first-reading amendments 34 and 36.

¹⁵ This provision needs to be consistent with Article 2(3)(a) (see footnote 4).

- = strategic approaches to policy development, implementation and enforcement:
including environmental impact assessment and strategic environmental assessment;
and
- = ex-post evaluation of Community environmental policy measures.

The **Information and Communication component** is to cover all of the priorities of the 6th EAP.

2. Measures

Without prejudice to Article 8, the following measures may be financed by LIFE + if they satisfy the eligibility criteria set out in Annex I:

- (a) as regards the budget subject to central direct management, certain operational activities of non-governmental organisations that are primarily active in protecting and enhancing the environment at European level;
- (b) as regards the budget subject to either central direct or delegated management:
 - studies, surveys, modelling and scenario building,
 - monitoring,
 - capacity building assistance,
 - training, workshops and meetings,
 - networking,

- best practice platforms,¹⁶
- information and communication actions, including awareness raising campaigns,
- demonstration of policy approaches and instruments,¹⁷ and
- specifically for the nature and biodiversity component:
 - = best practice or demonstrative approaches to site management and planning,¹⁸
 - = setting up procedures and structures for the monitoring of conservation status, as well as undertaking the monitoring of forests,¹⁹
 - = [the development of new market measures to promote the protection of nature and biodiversity,]
 - = the development of species and habitats action plans,²⁰
 - = public awareness campaigns on forest fires, and
 - = the training of agents participating in forest fire prevention initiatives.

¹⁶ DE/AT/SI would like to have an explicit reference to IMPEL. Cion opposes this.

¹⁷ A number of delegations would like to include a reference to innovative technologies and methods (see footnote 6).

¹⁸ Several delegations have concerns about the restriction to best practice or demonstrative approaches for the reasons set out in footnote 14.

¹⁹ PL requests a reference to inventories.

²⁰ A number of delegations would like to expand the list of measures, particularly to add: (a) urgent conservation measures for habitats and species with the poorest conservation status (CY/NL/PL/PT/SI/SK); and/or (b) the purchase of land (EE/ES/CY/PL/PT/SI/SK). Cion has doubts about (a) and opposes (b).

CO-FINANCING RULES

A. CO-FINANCING RATES

1. For action grants, the maximum rate of co-financing shall be 50%.²¹

B. CO-FINANCING OF PUBLIC ADMINISTRATIONS' STAFF COSTS

2. In the case of national agencies entrusted with programme implementation in accordance with Annex 4, Community funding may be made available up to a maximum of [2]% of the Community contribution to the Member State's national annual work programme for the related year. Staff must be carrying-out additional tasks that national administrations did not previously fulfil in connection with the implementation of Community programmes.
3. Community funding may be made available for civil servants' salary costs, to the extent that they relate to the cost of project implementation activities that the relevant public authority would not have carried out if the project concerned were not undertaken. Staff must be specifically recruited for a project and they must represent an additional cost with respect to existing permanent staff.

²¹ EE/ES/IT/CY/LV/HU/PL/PT/SI/SK would like to include a 75% maximum rate for certain actions, particularly in relation to nature and biodiversity.

CRITERIA FOR THE ALLOCATION OF THE ANNUAL BUDGET
BETWEEN MEMBER STATES

- [1. Member States with a population of less than [1] million shall receive an annual allocation of xxxxx EUR.

2. The remaining annual budget shall be allocated between the other Member States in accordance with the following criteria:
 - (a) a criterion based on the population of each Member State, expressed as a percentage of the total EU population;

 - (b) a criterion based on the relative wealth of each Member State;

 - (c) a criterion based on the proportion of a Member State's territory (terrestrial, territorial waters and exclusive economic zone or equivalent) covered by sites of Community importance, expressed as a proportion of total Community land and marine areas covered by sites of Community importance.]²²

²² Commission suggestion as a basis for discussion.

CRITERIA FOR 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 conformity with the provisions of Articles 54(2)(c) and 56 of the Financial Regulation and Articles 38 and 39 of Commission Regulation (EC, Euratom) No 2342/2002.
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 a prior assessment, that delegation of funds to national agencies complies with sound financial management and will enhance the visibility of the Community action. Moreover, the Commission shall request the opinion of the Committee provided for in Article 12(1) of this Regulation.
3. The designation of national agencies shall be in accordance with the following criteria:
 - An organisation established or designated as a national agency must have legal personality and be governed by the law of the Member State concerned.
 - National agencies must have an adequate number of staff, with professional capacities in the field of environment policy.
 - They must have an appropriate infrastructure, in particular as regards computing and communications.

- They must operate in an administrative context which enables them to carry out their tasks satisfactorily and to avoid conflicts of interest.
 - They must be in a position to apply the financial management rules and contractual conditions laid down at Community level.
 - They must offer adequate financial guarantees, issued preferably by a public authority, and their management capacity must be appropriate to the level of Community funds that they will be called upon to manage.
4. The Commission shall conclude an agreement with each national agency, in accordance with Article 41 of the Financial Regulation's Implementing Rules, 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 certify that Member States take necessary steps to ensure the appropriate audit and financial oversight of national agencies. Member States shall, before any delegation takes place, provide the Commission with necessary assurances as to the existence, relevance and proper operations within the relevant national agency in accordance with the rules of sound financial management.
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.

*

=====

* The deletion of the Annex providing an indicative breakdown of the budget between components is consistent with European Parliament first-reading amendment 44.