

Proposal for a Council Regulation (EC) on measures to promote the conservation and sustainable management of tropical forests and other forests in developing countries

(1999/C 87/03)

COM(1999) 41 final — 99/0015 (SYN)

(Submitted by the Commission on 3 February 1999)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 189c of the Treaty,

- (1) Whereas forests have a variety of functions and values for mankind and can contribute to the achievement of Community development and environment objectives such as poverty reduction, sustainable economic and social development and protection of the environment;
- (2) Whereas, in numerous resolutions, the European Parliament has expressed its concern over the destruction of forests and the consequences for forest peoples;
- (3) Whereas, in reply to the request by the European Parliament in its Resolution on the European Union's forestry strategy⁽¹⁾ the Commission has adopted, in ..., Communication '...' setting out a strategy for Community action on the promotion of the conservation and sustainable management of forests in developing countries;
- (4) Whereas the objectives of this strategy are to be pursued in the context of the broader Community aim to promote the conservation and sustainable use of forests, in whatever geographical area or climate zone they may be situated;
- (5) Whereas the Community and its Member States are signatories to the Rio Declaration and the Agenda 21 action programme and are committed to the Ungass resolution 'Programme for the further implementation of Agenda 21';
- (6) Whereas the Community and its Member States are members of the World Trade Organisation and parties to Multi-lateral Environment Agreements, notably the Convention on Biological Diversity, the Framework Convention on Climate Change and the Convention to Combat Desertification; whereas they are thus committed to take into account the common but differentiated responsibilities of developed parties and developing parties on these subjects;
- (7) Whereas, in its 1997 Special Session, the United Nations General Assembly has endorsed the proposals for action formulated in the framework of the Intergovernmental Panel on Forests (IPF); whereas the Community and its Member States are fully committed to the implementation of these proposals;
- (8) Whereas Council Regulation (EC) No 3062/95 of 20 December 1995 on operations to promote tropical forests⁽²⁾ set out the framework of Community assistance in this area; whereas Regulation (EC) No 3062/95 was applicable until 31 December 1999; whereas the experience acquired during the implementation of Regulation (EC) No 3062/95 should be reflected in this regulation;
- (9) Whereas, in its Resolution of 30 November 1998, the Council acknowledges the role that forest peoples play in managing the environment, in particular with regard to the conservation and sustainable use of forests in developing countries;
- (10) Whereas existing financial instruments available to the Community for supporting the conservation and sustainable development of forests could usefully be supplemented;

⁽¹⁾ OJ C 55, 24.2.1997, p. 22.

⁽²⁾ OJ L 327, 30.12.1995, p. 9.

- (11) Whereas provision should be made for funding the operations referred to in this Regulation;
- (12) Whereas rules for implementation, in particular the form of action, recipients of aid and decision-making procedures, should be laid down,
4. 'Sustainable development' means the improvement of the standard of living and welfare of the relevant populations within the limits of the capacity of the ecosystems by maintaining natural assets and their biological diversity for the benefit of present and future generations.
5. 'Forest peoples' means the indigenous peoples 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.

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall provide financial assistance and technical expertise to promote the conservation and sustainable management of tropical forests and other forests in developing countries so as to meet the economic, social and environmental demands placed on forests at local, national and global levels.

This financial assistance and technical expertise shall complement and reinforce the assistance provided through other instruments of development cooperation.

Article 2

For the purposes of this Regulation:

1. 'Tropical forests and other forests in developing countries' means the natural and semi-natural forest ecosystems, whether primary or secondary, whether closed or open forests, in both dry and humid areas. The areas concerned are those found within the territories of African, Caribbean and Pacific countries, the Mediterranean countries and the countries of Latin America and Asia.
2. 'Conservation' means all operations to preserve and rehabilitate forests, in particular operations designed to protect or restore the biological diversity and ecological functions of the forest ecosystem, while securing as far as possible their current and future value for mankind and in particular for forest peoples.
3. 'Sustainable forest management' means the management and use of forests and wooded lands in a way, and at a rate, that maintains their biological diversity, 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, without causing any damage to other ecosystems.

Article 3

Activities to be carried out pursuant to this Regulation shall aim at:

- raising the status of forests in national policies and integrating forest policies in development planning;
- promoting the production and use of wood and non-wood forest products from sustainably managed resources;
- contributing to the adequate valuation of forest resources and services.

Article 4

1. In the provision of financial assistance and technical expertise aimed at attaining the objectives set out in Article 3, the Community shall give special consideration to the promotion of:

- a) development of appropriate national and international forest policy frameworks based on realistic valuation of forests, including land use planning, equitable trade in sustainably produced forest products, legal and fiscal measures, institution building, support to the private sector and taking into account other sectoral policies which impact on forests and the interests and customary rights of forest peoples;
- b) conservation of forests which are recognised as being of high ecological value as well as restoration of degraded forest areas, which are considered to be of importance due to their local and global impacts such as the protection of hydrographic basins, the prevention of soil erosion, climate change and the preservation of biological diversity;

- c) sustainable forest management and utilisation to provide economic, social and environmental benefits and including *inter alia* forest certification and environmentally sound harvesting of both wood and non-wood forest products and natural and assisted forest regeneration;
- d) economic viability of sustainable forest management through more efficient utilisation of forest products and technical improvements of downstream activities related to the forest sector such as small and medium scale processing and marketing of wood and non-wood forest products, the sustainable use of wood as energy source and the development of alternatives to agricultural practices based on forest clearing;
- e) knowledge and information generation and management concerning forest services and products, in order to provide a sound scientific basis for realising the priorities listed under a) to d).

2. Priorities shall be determined in accordance with:

- the needs of each country as reflected in regional and national development and environment policies relating to forests, considering National Forest Plans, and
- Community cooperation objectives as established in jointly agreed country strategy papers.

3. Particular attention shall be given to:

- encouraging private entrepreneurship in the forest products processing and marketing chain, in the context of agreed policies for private sector development and taking into account existing social systems and community-based economic activities;
- encouraging the direct participation of developing country public and private organisations, ensuring appropriate scale of interventions and adaption of administrative procedures to locally manageable level;
- participation of forest peoples in operations carried out pursuant to this Regulation;
- sustainability of any proposed activity, social, economic as well as environmental.

4. Operations carried out pursuant to this Regulation shall be preceded by environmental and social impact assessments, as well as analysis of financial and economic feasibility. These operations shall also be preceded by provision of relevant information to forest peoples and be conditional on their support.

Operations carried out will be evaluated using specific quantitative and qualitative indicators set in the reference conditions.

5. Operations carried out pursuant to this Regulation shall be coordinated with, and may provide support for, national and international programmes and operations on the conservation and sustainable management of forests, in particular the proposals for action formulated in the context of the IPF/IFF process.

6. When appropriate, operations shall be carried out within the framework of regional organisations and international programmes of cooperation and shall form part of a global policy on the conservation and sustainable management of forests.

7. Operations carried out pursuant to this Regulation shall concentrate on pilot projects in the field, innovative programmes, studies and research, the results of which will enable the EC to develop, adjust and implement its forest sector cooperation policies.

Article 5

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

Article 6

1. Community financing may cover studies, technical assistance, education, training or other services, supplies and works, small grant funds as well as appraisals, audits and evaluation and monitoring missions. It may cover technical and administrative assistance costs, to the benefit of the Commission and the beneficiary, related to operations other than the permanent tasks of the public administration, linked to the identification, preparation, management, monitoring, auditing and control of programmes or projects.

Community financing may cover both investment, linked to a specific programme or project, with the exception of the purchase of real estate, and, recurring expenditure (including administrative, maintenance and operation expenditure).

However, with the exception of training, education and research programmes, operating costs may normally be covered only during the start-up phase and on a gradually decreasing basis.

2. A contribution shall be sought from the beneficiaries defined in Article 5. Their contribution shall depend on their means and the nature of the operation concerned.

3. Opportunities may be sought for cofinancing with other donors, especially with Member States and the international organisations concerned. In this respect, a coordination with the measures taken by other donors shall be sought.

4. The necessary measures shall be taken to emphasise the Community character of the aid provided pursuant to this Regulation.

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

- a) the establishment of a system for the systematic exchange and analysis of information on operations financed or being considered for financing by the Community and the Member States;
- b) on-the-spot coordination of these operations by means of regular meetings and exchanges of information between the representatives of the Commission and Member States in the beneficiary countries.

6. In order to obtain the greatest possible impact at global, national and local levels, the Commission, in liaison with the Member States, may take any initiative necessary for ensuring proper coordination and close collaboration, especially regarding the exchange of information, with the beneficiary countries, donors and international organisations, funds and programmes involved, in particular those forming part of the United Nations system.

Article 7

Financial support pursuant to this Regulation shall take the form of grants.

Article 8

1. The Commission shall be responsible for appraising, deciding on and administering operations covered by this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.

2. Decisions relating to grants of more than EURO 2 million for individual operations financed pursuant to this Regulation shall be adopted under the procedure laid down in Article 9.

3. The Commission shall be authorised to approve, without seeking the opinion of the Committee referred to in Article 9, any extra commitments needed for covering any expected or real cost overruns in connection with the operations, provided that the overrun or additional requirement is less than or equal to 20% of the initial commitment fixed by the financing decision.

4. All financing agreements or contracts concluded pursuant to this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with the usual procedures laid down by the Commission under the rules in force, in particular those of the Financial Regulation applicable to the general budget of the European Communities.

5. Where operations are the subject of financing agreements between the Community and the recipient country, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the Community.

6. Participation in invitations to tender and the award of contracts shall be open on equal terms to all natural and legal persons of the Member States and of the recipient country. It may be extended to other developing countries and, in exceptional cases which are fully justified, to other third countries.

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

8. Particular attention will be given to:
- the pursuit of cost-effectiveness and sustainable impact in project design,
 - the clear definition and monitoring of objectives and indicators of achievement for all projects.

Article 9

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

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, 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.

Article 10

An exchange of views shall take place once a year on the basis of a presentation by the representative of the Commission of the general guidelines for the operations to be carried out in the year ahead, in the framework of a joint meeting of the Committees referred to in Article 9.

Article 11

1. After each budget year, the Commission shall submit an annual report to the European Parliament and the Council, summarising the operations financed

in the course of that year and evaluating the implementation of this Regulation over that period.

The summary shall in particular provide information about the nature and quantity of the projects financed and about those with whom contracts have been concluded. The report shall also indicate the number of external assessments carried out, if any, regarding specific activities.

2. The Commission shall regularly assess operations financed by the Community with a view to establishing whether the objectives aimed at by those operations have been achieved and to providing guidelines for improving the effectiveness or future operations. The Commission shall submit to the Committee referred to in Article 9a summary of the assessment made which may, if appropriate, be examined by the Committee. The assessment reports shall be available to any Member States requesting them.

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

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

Article 12

1. This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

2. Four years after the entry into force of this Regulation the Commission shall submit to the European Parliament and to the Council an overall assessment of the operations financed by the Community under this Regulation, together with suggestions concerning the future of this Regulation.

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