

Amended proposal for a Council Regulation concerning action against anti-personnel landmines in third countries other than developing countries

(2001/C 120 E/13)

COM(2000) 880 final — 2000/0062/B(CNS)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 20 December 2000)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The Community is concerned by the presence of anti-personnel landmines and other unexploded devices in the areas of civil communities which are trying to recover from armed conflict.
- (2) Anti-personnel landmines cause suffering and casualties, and constitute a serious obstacle to economic development, inhibit the return of refugees and displaced persons, and obstruct humanitarian aid operations, reconstruction and rehabilitation and the restoration of normal social conditions.
- (3) The Community is committed to the goal of total elimination of anti-personnel landmines world-wide in the coming years.
- (4) The Community and its Member States have provided the largest contribution to the wider international effort to overcome the tragedy of anti-personnel landmines.
- (4a) Action to achieve the total elimination of anti-personnel landmines is still at an early stage and therefore the Community should continue to exercise determined leadership until the goal is fully achieved.
- (5) This Regulation is a direct response to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Land Mines and their Destruction (Ottawa Convention).
- (6) Therefore, financial aid should, as a priority, benefit those third countries which are committed to the fight against anti-personnel landmines and are parties to the Ottawa Convention.
- (7) Such an approach should not prevent Community response to humanitarian emergencies wherever they occur.
- (8) Community mine action is often an integral part of humanitarian aid, rehabilitation, reconstruction or development projects, whilst being a discrete and specialised activity responding to distinct priorities, operational requirements and political imperatives.
- (9) As part of such projects, as well as in the case of framework programmes for the research and development of mine action technology, new and existing actions will continue to be funded from specific budget lines, supported, complemented and co-ordinated under this Regulation where appropriate.
- (9a) For the Community to be able to contribute effectively to preventive actions on mines, it will be necessary also to ensure stockpile destruction. This new task will require a substantial increase in Community funding for mine action and should not detract from the other de-mining activities.
- (9b) To destroy the stockpiles still being held by many States would be highly advantageous in financial terms and would reduce the possibility of the mines in question being sold on the black market.
- (9c) Scientific research should be intensified with the aim of developing technologies to facilitate mine detection and identification of the affected areas with greater precision.
- (9d) The Community needs to be in a position to ascertain that the de-mining actions which it has financed have been effective. It must therefore employ the appropriate technical means, including military technology where necessary.
- (10) This Regulation is designed to provide the basis for a coherent and efficient approach for the Community mine action in third countries other than developing countries, through advancing an integrating strategy, in close co-ordination between the Commission, the Member States and the international community at all stages of mine actions.
- (11) It is necessary to ensure that these actions are coherent with the European Union's foreign policy as a whole, including the Common Foreign and Security Policy.

⁽¹⁾ OJ C 248 E, 29.8.2000, p. 115.

(12) Since the measures necessary for the implementation of this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾, they should be adopted by use of the management procedure provided for in Article 4 of that Decision.

(13) The anti-personnel landmine problem, by its life-threatening nature and its global extent, requires efficient, flexible and, where necessary, rapid decision-making procedures for the financing of Community actions.

(14) The Commission, in accordance with Article 3 of the Financial Regulation, will revise the financial statement, in particular its estimated schedule of annual requirements in appropriations, in the light of progress in implementing this Regulation.

(15) The Community should ensure maximum transparency in the implementation of the financial assistance and stringent controls in the use of appropriations.

(16) The protection of the Communities' financial interests as well as the fight against fraud and irregularities constitute an inherent part of this Regulation.

(17) The operations referred to in this Regulation fit into the framework of Community co-operation policy in third countries other than developing countries and are necessary to attain one of the objectives of the Treaty. The Treaty does not provide for the adoption of this Regulation, powers other than those laid down in Article 308,

HAS ADOPTED THIS REGULATION:

Article 1

1. The purpose of this Regulation is to lay down the procedures for the implementation of Community operations other than those of development co-operation carried out within the framework of Community co-operation policy in third countries ensuring a consistent and coherent humanitarian de-mining strategy at Community and international levels and responding to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (hereinafter referred to as the 'Ottawa Convention').

2. The operations referred to in this Regulation shall be implemented in the territory of third countries or shall be

directly related to situations arising in these countries, particularly in those recovering from conflicts.

Mine actions should be integrated into all co-operation strategies of those third countries which suffer from the consequences of anti-personnel landmines.

Article 2

1. The principal objectives of the Community mine action shall be:

(a) to support the elaboration, monitoring and implementation of a civilian de-mining strategy;

(b) to assist afflicted countries in the implementation of their obligations under the Ottawa Convention;

(c) to create and sustain national structures and local capabilities within the afflicted countries to carry out mine actions with maximum effectiveness;

(d) to respond to humanitarian emergency, prevent casualties and assist the rehabilitation of mine victims, in exceptional cases of humanitarian need, also in States which have not acceded to the Ottawa Convention;

(e) to support the in-country trial and introduction into operational use of appropriate mine action equipment and techniques;

(e.a) to promote co-ordination with end users of the de-mining equipment at the early stages of research and to support the use of these technologies in the poorest mine-affected countries;

(e.b) to encourage de-mining actions that are compatible with the local environment and consistent with the sustainable development of the affected region;

(f) to support co-ordination among international mine action players

2. The operations financed under this Regulation may comprise all activities related to mine action, including:

(a) mine awareness education;

(b) training of specialist personnel;

(c) survey and marking of suspected areas;

(d) detection and identification of landmines;

(e) de-mining (mine clearance to humanitarian standards) and landmine and stockpile destruction;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

- (f) victim assistance for the care, rehabilitation and socio-economic reintegration of mine victims;
- (g) information management, including geographical information systems;
- (h) improvement of the effectiveness of techniques and safety standards;
- (i) other activities, which contribute to the reduction of the human, economic, and environmental impact of anti-personnel landmines, and other hazardous debris of war.

3. In the context of paragraph 2, priority shall be given to actions addressing immediate and unforeseeable requirements generated by outbreaks of fighting, migration of large groups of people towards mine-afflicted areas, or comparable situations such as urgent assistance in the implementation of peace agreements. Priority will also be given to actions in the most seriously mine-afflicted countries, where anti-personnel landmines and other unexploded ordnance cause many civilian casualties or where the presence or suspected presence of these devices is a major obstacle to the restoration of economic and social activity or to development and thus require a specific long-term commitment that emergency humanitarian or reconstruction aid are unable to provide.

4. In order to ensure coherence, complementarity and synergy within regional co-operation programmes and in the context of humanitarian aid, rehabilitation, reconstruction and development projects, mine actions which can be financed within the framework of any of those programmes or projects will continue to be financed from the budget line on which the principal action is financed. Where necessary, these activities may be complemented or supported by mine actions financed under this Regulation.

Article 3

The operations financed under this Regulation shall in principle benefit those countries which are committed to the fight against landmines and are parties to the Ottawa Convention. Exceptions may be made for humanitarian emergency, for assistance to mine victims, and for actions in direct support of vulnerable civil communities, such as refugees and displaced persons, or where the national administration is not functioning.

Article 4

1. Partners eligible for financial support under this Regulation may include regional and international organisations

and agencies, non-governmental organisations, national, provincial and local governments departments and agencies, institutes, and public and private operators with appropriate specialised expertise and experience.

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

2a. Companies and other organisations tendering for contracts shall show that they have an operations policy that does not put their employees unduly at risk, and that such policy is supported by adequate employee accident and liability insurance.

Article 5

1. Community aid under this Regulation may be used to finance technical assistance, training, personnel or other services related to mine action; trials of equipment and techniques; logistical support, procurement, provision and storage of any equipment, supplies and works needed for the implementation of mine actions; studies and conferences and measures to strengthen international co-ordination of mine action; evaluation and monitoring missions; activities to raise public awareness; as well as the costs of highlighting the Community nature of the aid.

2. Community financing under this Regulation shall take the form of grants.

3. The operations covered by this Regulation shall be exempt from taxes, charges, duties and customs duties.

Article 6

1. The Commission shall be assisted by the relevant geographical committee composed of — representatives of Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7(3).

3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be three months.

Article 7

1. The Commission shall, on the basis of a reciprocal and regular exchange of information, including the exchange of information on the spot, facilitate effective co-ordination of the assistance efforts undertaken by the Community and individual Member States, in order to increase the coherence and complementarity of their programmes.
2. The Commission may seek opportunities for co-financing with other providers of funds, especially with Member States.
3. The Commission shall promote co-ordination and co-operation with other international contributors and players, in particular those which form part of the United Nations system, such as the GICHD in Geneva, and with NGOs.
4. The necessary measures shall be taken to give visibility to the contribution by the Community.

Article 8

1. The Commission shall appraise, decide, and administer operations covered by this Regulation in accordance with the budgetary and other procedures in force, and in particular those laid down in Articles 116 and 118 of the Financial Regulation applicable to the general budget of the European Communities.
2. Financing decisions exceeding EUR 3 million shall be taken under the procedure laid down in Article 6(2), with the exception of emergency action set out in Article 9.
3. The Commission shall inform the Committees referred to in Article 6 succinctly of any financing decisions of less than EUR 3 million in value. This information shall be made available not later than two months following the adoption of the financing decision.
4. The Commission may take decisions amending financing decisions adopted in accordance with the procedure laid down in Article 6(2), where they do not entail any substantial amendments or additional commitments in excess of 20 % of the initial commitment.

Article 9

1. The Commission may decide on emergency action when deemed necessary.
2. Operations to meet immediate and unforeseeable requirements generated by sudden natural or man-made disasters, such as floods, famine, migration of large groups of people towards mine-afflicted areas, sudden peace settlements, or comparable situations, as well as urgent assistance in the implementation of peace agreements, shall be deemed to necessitate emergency action.

3. The Commission, having adopted a decision in accordance with paragraph 1, shall inform the Member States in writing within two working days and account for its decision at the next meeting of the Committee concerned.

Article 10

1. Projects shall be prioritised and appraised in terms of their positive impact and cost effectiveness and, wherever possible, integrated into the wider development or reconstruction framework of the country or region in question.
2. Wherever possible, the project should be clearly integrated within a national anti-personnel landmines programme co-ordinated by the beneficiary government or by local society in co-operation with NGOs, or by an international institution mandated for that purpose. The aim should be for the project to be taken over, in due course, by the beneficiary government itself or by local society or NGOs in order to enhance local capacity and the sustainability of the project.

Article 11

All financing agreements or contracts concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks according to the usual procedures laid down by the Commission under the rules in force, and in particular those of the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾.

In addition, the Commission may carry out on-the-spot checks and inspections in conformity with Council Regulation (Euratom, EC) No 2185/96 ⁽²⁾. The measures taken by the Commission shall provide for adequate protection of the financial interests of the Community in conformity with Council Regulation (EC, Euratom) No 2988/95 ⁽³⁾.

Article 12

To facilitate multi-annual mine action co-ordination and programming, an APL Strategy Paper comprising horizontal guidelines and priorities for Community mine actions and the benchmarks for their achievement, shall regularly be presented to the Committees concerned, for reference. It shall cover issues such as a multi-annual indicative programme and shall refer to existing mine action programmes at country and regional levels, to the contributions of other donors including Member States and to Community mine actions funded from other budget lines.

Article 13

1. The Commission shall regularly assess mine actions financed by the Community in order to establish whether the objectives of the operations have been achieved and to provide guidelines for improving the effectiveness of future operations.

⁽¹⁾ OJ L 356, 31.12.1977, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 312, 23.12.1995, p. 1.

2. The Commission shall regularly inform the European Parliament and the Council of the progress of its mine actions. It shall submit a detailed and public report summarising Community mine action in the previous year to the European Parliament and to the Council by 30 April each year at the latest, and evaluate the implementation of this Regulation. The report shall specify which actions have been implemented and indicate the respective amounts from the different budget lines.

Article 14

Three years after entry into force of this Regulation, the Commission shall submit an overall assessment of the

operations financed by the Community under this Regulation to the European Parliament and the Council, together with suggestions for the future of the regulation and, as necessary, proposals for amendments to it.

Article 15

This Regulation shall enter into force on the third day following that of 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.
