

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 849 final

Brussels, 11th January 1983

PROPOSAL FOR A COUNCIL REGULATION (EEC)

on action by the Community relating to the environment (ACE)

(presented by the Commission to the Council)

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I. EXPLANATORY MEMORANDUM

The Commission first tackled environment problems in a memorandum which it forwarded to the Council in 1971. This initiative, which received a decisive political boost at the Paris Summit in October 1972, led to the adoption by the Council on 22 November 1973 of a Community environment policy in the form of an action programme (1), which was continued and supplemented by a second programme (2) on 17 May 1977, and by a proposal to continue the action programme in the period 1982-86 which should be adopted by the Council in December 1982.

In addition, the Council has adopted several research programmes intended to provide scientific and technical support for Community environment policy.

From the outset, the Community interpreted the "environment" concept in two ways, first of all as encompassing all the natural resources (the natural environment, raw materials and land) damaged or over-exploited as a result of economic and social development, and secondly as referring to the quality of life and living conditions, which are greatly influenced by the way in which these natural resources are exploited. Environment policy, which is intended to contribute to harmonious economic development, thus has a two-fold objective : to ensure sound management of natural resources, which are economic assets of growing importance and the common heritage of all mankind now and in the future, and at the same time to bring qualitative concerns into the planning and organization of economic and social development. The programmes set out precisely the various types of action to be taken to this end.

(1) OJ N° C 112 of 20 December 1973

(2) OJ N° C 139 of 13 June 1977

Substantial results have been achieved in various ways in a very short space of time (1). The main endeavours have been in the form of legislation aimed at reducing pollution and preserving the natural environment. In just under seven years the Community has adopted over 60 pieces of legislation in this field, including fifteen on the reduction of air pollution, seven on waste, eight on noise abatement, and four on the protection of the environment, land and natural resources.

At first, efforts were made to remedy the most striking examples of pollution, to bring the Community into international negotiations on the environment, to harmonize the most urgent procedures (such as the exchange of information between the Member States and the Commission) in order, in particular, to ensure that intra-Community trade or the conditions of competition are not affected by differences in the laws of the Member States.

However, with the passage of time, this essentially remedial policy has increasingly tended to be supported by preventive action seeking to bring environmental concerns into the decision-making process at a stage prior to decisions liable to affect the environment and to promote this by means of positive support measures.

Environment policy thus links up with and seeks to facilitate the major objectives for the economy of the Community as a whole in this decade : a reduction in the consumption of energy and raw materials, and the promotion of innovation and job creation. It is an indispensable aspect both of economic policy in general and of the policies relating to individual sectors.

(1) Communication from the Commission to the Council entitled "Progress made in connection with the environment action programme and assessment of the work done to implement it" (COM(80)222).

This entails two series of tasks in the context of Community environment policy.

On the one hand, there is the legislation which has been the cornerstone of the policy pursued so far in this area ; this must, of course, be supplemented, tightened up and brought into line with changing conditions.

However, it has to be stated that rules and regulations alone are an insufficient basis for a genuinely dynamic environmental protection policy ; as such a policy must, above all, be preventive in nature, recourse should also be had to other methods and measures of support.

The European Parliament, convinced of the necessity to create for this purpose a "European Fund for the Environment", has taken the initiative of entering four new budget headings in the 1982 budget with a view to enabling there to be financial intervention in support of this policy.

The 1982 budget contains an article (661) entitled "Community operations concerning the environment", the total budget allocation for which amounts to 6.5 million ECU for 1982.

Taking into account the experience which it has acquired in using these budget headings for descriptive analysis and pilot experiments, the Commission considers that two of these headings should be used in such a way as to go beyond the stage of ad hoc measures, in order to make the best possible use of the financial resources available.

The headings in question concern "clean technologies" and the protection of certain sensitive areas of Community interest which would seem to be two sectors concerning which such new forms of action are most desirable and urgent and for which no other existing financial instrument available to the Community would seem to be appropriate.

In this fashion the Community can also make a contribution towards the practical utilization of the results of the Community's environmental research programmes and, where clean technologies are concerned, the results of the research programme in the raw materials sector.

In the first case, it is a question of promoting innovation in industry by encouraging industry to develop new processes which are less polluting and more economical of raw materials.

In this way, the Community can make a contribution towards preserving the environment at a lower cost and towards pollution control.

Similarly, it is becoming increasingly clear that Community support for the conservation of certain sensitive areas of Community importance is needed. It is above all a question of encouraging the competent authorities or non-governmental organizations to take appropriate steps to ensure the protection of such areas concerning which the Community has special responsibilities arising from the Community Directive on the conservation of wild birds, and the Berne and Bonn Conventions and the Protocol to the Barcelona Convention to which the Community is, or is preparing to be, a Contracting Party.

These areas are increasingly threatened by economic development, and their disappearance would cause irreparable damage to society in general. Generally, such damage can be prevented only by imposing restrictions on local economic activities.

The fact that such restrictions on economic activities in these areas are imposed in the interest of the Community itself fully justifies recourse to Community solidarity through financial intervention, as no other existing financial instrument available to the Community would seem to be appropriate to enable such action to be implemented, even though it is so vitally important.

In supporting this action, the Community would at the same time help to create new jobs.

In the light of the above considerations, the Commission proposes that the Council adopt the appropriate legal basis for measures relating to "clean technologies" and the protection of certain sensitive areas of Community interest.

II. COMMUNITY FINANCIAL INSTRUMENTS RELATING TO THE ENVIRONMENT

The proposed instruments would be intended to provide financial support for two types of priority action :

- (a) the development of new technologies which are "clean", i.e. which cause little or no pollution and are more economical of natural resources, in particular raw materials ;
- (b) the protection of the natural environment in certain sensitive areas of Community interest.

1. Development of new technologies which are "clean", i.e. which cause little or no pollution and are more economical of natural resources, in particular raw materials

(a) Scope

The second Community action programme on the environment, which was adopted in 1977, makes one of its objectives the identification, in respect of each polluting branch of industry, of the technical or other processes likely to reduce, eliminate or prevent the emission of polluting substances or the creation of nuisances.

At its meetings on 18 December 1978 and 9 April 1979, the Council emphasized the role of clean technologies, specifying three aims for them :

- (a) to cause less pollution, i.e. discharge less effluent into the natural environment,
- (b) to produce less waste,
- (c) to be more economical of natural resources (in particular raw materials).

Moreover, it is essential to improve still further the monitoring of the environment, and new techniques and methods are needed for this purpose. The objective would be to aid firms, federations of firms or other bodies answering an invitation, published by the Commission, for the submission of pilot projects intended to attain all or some of the three abovementioned objectives or to improve methods and equipment, for monitoring the various sectors of the environment.

In order to be able to assess the value of the projects submitted for Community aid, the Commission would consult independent technical experts before referring the projects to the ad hoc Advisory Committee - the creation of which is proposed below - for an opinion.

It would seem to be particularly desirable that precedences should be given, in the granting of Community aid, to small and medium-sized firms whose financial resources are limited but whose innovative capacity in the field of clean technologies would seem to be considerable and can make a direct contribution towards reducing the social costs of pollution and nuisance in the Community.

(b) Financial provisions

It is proposed that the aid should be granted directly to natural or legal persons answering an invitation to submit projects published in the Official Journal of the European Communities which undertake to inform the Commission, within a period to be determined contractually by mutual agreement, of the results of their work in order to attain the objectives mentioned in point (a).

2. Protection of the natural environment in certain sensitive areas of Community interest

(a) Scope

Certain problems relating to the preservation of the natural environment are of Community interest and of such a scale as to necessitate a Community approach, but not solely in the form of rules and regulations. The preventive preservation of certain sensitive natural areas, in accordance with certain Community directives or international conventions to which the Community is, or is preparing to be, a Contracting Party, is of prime importance. These areas are geographically identifiable following studies carried out at the Commission's request.

The protection of flora and fauna is an essential part of nature conservation. At Community level, the main piece of legislation approved by the Council is the Directive of 2 April 1979 on the conservation of wild birds. This Directive, and the Council resolution of 2 April 1979 relating to it, places particular emphasis on the preservation of areas which provide a habitat for certain species of flora (biotopes). There are similar obligations arising from the Berne and Bonn Conventions and the Protocol to the Barcelona Convention, to which the Community is, or is preparing to be, a Contracting Party.

It is proposed that aid should be granted to public authorities or other bodies recognized by these authorities, for the conservation, management or acquisition of such areas by such authorities.

In the framework of these objectives, financial compensation could also be granted where action is taken to restrict, transfer or put an end to activities incompatible with the use and status of these areas. None of the other existing financial instruments available to the Community can provide support for such operations as their objectives are fundamentally very different.

(b) Financial provisions

Community aid would take the form of financial intervention representing a percentage (not exceeding 50 % for investments and financial compensation for the restriction of certain economic activities, and not exceeding 70 % for descriptive analyses) of the cost of the similar operations.

III. INSTITUTIONAL ARRANGEMENTS AND DECISION-MAKING PROCEDURES

The Commission will grant or refuse all or part of the aid requested under the Regulations after consulting the ad hoc Advisory Committee.

This Committee will consist of representatives of the Member States and will be chaired by a Commission representative.

IV. AMOUNT OF APPROPRIATIONS REQUESTED

Two financial statements are attached to this draft decision.

Proposal for a Council Regulation (EEC)

on action by the Community relating to the environment

(ACE)

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

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

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, pursuant to Article 2 of the Treaty, the Community has as its task, inter alia, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion and an increase in stability ;

Whereas in its Declaration of 22 November 1973 (4) the Council adopted the action programme of the European Communities on the environment which was continued and extended on 17 May 1977 (5), and again on 17 December 1982 for the period 1982-86 ;

(1) OJ N°

(2) OJ N°

(3) OJ N°

(4) OJ N° C 112, 20.12.1973, p. 1

(5) OJ N° C 139, 13.06.1977, p. 1

(6) OJ No C

Whereas, in order to ensure that the objectives formulated in this action programme are fully realized, it is necessary that the Community should contribute financially towards the carrying out of certain specific measures and, for this purpose, the European Parliament has allocated funds to specific budget headings with a view to constituting a "European Fund for the Environment" ;

Whereas the development of clean technologies is a particularly appropriate way of ensuring a preventive reduction in pollution and a more careful use of natural resources in the most economically sensible fashion ;

Whereas the development of clean technologies will have a positive effect on innovation and employment ;

Whereas use should be made of certain results of the Community research and development programmes relating to the environment (1) and raw materials (2) ;

Whereas in order to ensure that the objectives of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (3) and the Resolution relating thereto (4) are fully realized, it is important that the Community should be able to make an effective contribution towards the establishment of a consistent network of protected areas ensuring the conservation of the species covered by that Directive ;

Whereas the creation, conservation, maintenance and appropriate management of nature protection areas are essential to the implementation of that Directive ;

(1) OJ N° L 101, 11.04.1981, p. 1

(2) OJ N° L 174, 21.06.1982, p. 23

(3) OJ N° L 103, 25.04.1979, p. 1

(4) OJ N° C 103, 25.04.1979, p. 6

Whereas there are similar obligations arising from the Berne Convention on the conservation of European wildlife and natural habitats and the Bonn Convention on the conservation of migratory species of wild animals, approved by Council Decisions 82/72¹ and 82/461² respectively, and from the Protocol to the Barcelona Convention for the protection of the Mediterranean Sea against pollution, approved by Council Decision 77/585³ to which the Community is, or is preparing to be, a Contracting Party;

Whereas the creation, maintenance and appropriate management of certain areas which provide a habitat for threatened or migratory species are of genuine Community interest ;

Whereas these areas are in particular threatened by certain economic activities, and measures should therefore be encouraged to restrict, transfer or put an end to such activities ;

Whereas it is necessary that the Community should, within the limits of the budget funds available, grant financial support for projects relating to clean technologies and for schemes for the conservation of nature protection areas of Community importance ;

Whereas an Advisory Committee should be set up in order to assist the Commission in selecting the projects to be financially supported ;

Whereas the Treaty has not provided the necessary powers,

HAS ADOPTED THIS REGULATION :

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- (1) OJ No L 38, 10.02.1982, p.1
 - (2) OJ No L 210, 19.07.1982, p. 10
 - (3) OJ No L 240, 19.09.1977, p. 1

Article 1

The purpose of this Regulation is to establish a system of financial support for certain specific types of investment relating to environment policy in the Community.

Article 2

1. Under the conditions laid down below, the Community may grant financial support for :

- a) the development of new technologies which are "clean" ;
- b) measures to protect the natural environment in sensitive areas of Community interest.

2. The financial support referred to in paragraph 1 shall be granted within the framework of the appropriations provided for this purpose in the general budget of the European Communities.

TITLE I : NEW TECHNOLOGIES WHICH ARE "CLEAN"
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Article 3

1. The financial support referred to in Article 2 (1) (a) may be granted for projects contributing towards the systematic development of new technologies which are "clean", i.e. which cause little or no pollution and are more economical of natural resources, in particular raw materials, and the development of new, more effective techniques for monitoring the quality of the natural environment .

2. However, projects to make rational use of energy which come under other Community programmes shall not be eligible.

3. Financial support shall not exceed 50 % of the cost of projects and 70 % of the cost of descriptive analyses.

Article 4

Applications for financial support for projects covered by this Title from individuals or undertakings in the Community following an invitation to submit projects prepared by the Commission after consultations within the Committee provided for in Article 15 and

published in the Official Journal of the European Communities shall be sent to the Commission and shall contain the following information :

- a detailed description of the project, and in particular the organization of its administration and the results expected,
- the time-scale for carrying out the project,
- the nature and extent of the technical and economic problems involved in the project ;
- the cost of the project, its viability and the financing arrangements proposed,
- the extent to which the relevant experience may provide encouragement for the widespread introduction of the technique, process or product in the Community, the general application prospects for this technique, process or product and the benefits thereby obtainable for the economy as a whole,
- any other information which may justify the Community support requested,
- how it is proposed to disseminate the results of the project.

Article 5

The degree of detail of the information to be furnished confidentially to the Commission, to government bodies in the Member States or to the public, and the procedures and measures for making such information available shall be determined by the Commission after consulting the Advisory Committee referred to in Article 15.

Article 6

In the event of commercial exploitation of the results of a project, the Commission may request repayment of its financial contribution in accordance with procedures to be laid down in the contract.

Article 7

The benefits granted by the Community must not adversely affect the conditions of competition in a manner incompatible with the principles embodied in the relevant provisions of the Treaty.

TITLE II : SENSITIVE AREAS OF COMMUNITY INTEREST
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Article 8

1. The financial support referred to in Article 2 (1) (b) may be granted for projects (including land acquisition projects) contributing towards the protection of the natural environment in sensitive areas of Community interest such as those covered by Directive 79/409/EEC, the Berne Convention on the conservation of European wildlife and natural habitats, the Bonn Convention on the conservation of migratory species of wild animals, and the Protocol to the Barcelona Convention for the protection of the Mediterranean Sea against pollution.

2. Expenditure intended to compensate for restricting economic activities in areas such as those defined in paragraph 1 in order to safeguard habitats shall also be eligible, subject to guarantees given by the public authorities in accordance with procedures to be laid down in each contract.

Article 9

Applications for financial support for projects covered by this Title from individuals or undertakings in the Community shall be sent to the Commission and shall contain a detailed description of the project, and in particular the following information :

- the organization of its administration, and the expected results,
- the time-scale for carrying out the project,
- the nature and extent of the problems which the project is intended to resolve,
- the cost of the project, its viability and the financing arrangements proposed,
- any other information which may justify the application,
- how it is proposed to disseminate the results of the project.

Article 10

Financial support shall not exceed 50 % of the cost of projects and 70 % of the cost of descriptive analyses.

Article 11

The Commission shall examine the applications submitted, and shall decide as to the grant of financial support on the basis of the importance of the zone at Community level, and of the urgency of financial support, after consultations within the Committee referred to in Article 15.

TITLE III : GENERAL AND FINAL PROVISIONS

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Article 12

Financial support under this Regulation may be granted to the natural persons or legal persons constituted in accordance with the laws in force in the Member States who are responsible for the project or the descriptive analysis.

If the creation of a legal entity for the purpose of carrying out a project will involve additional costs for the participating undertakings, the project may be carried out simply by cooperation between natural or legal persons. In that case, the liability for the obligations resulting from Community support shall be specified in the contract.

Article 13

The Commission shall negotiate and conclude the necessary contracts.

The person in receipt of Community support shall send to the Commission, each year or at its request, a report on the fulfilment of the contractual obligations towards the Commission and, in particular the progress of work on the project and the expenditure incurred in carrying it out.

Article 14

A list of the measures for which Community aid has been granted shall be published each year in the Official Journal of the European Communities.

Article 15

1. An Advisory Committee consisting of representatives of the Member States and chaired by a Commission representative is hereby set up.
2. The work of the Committee shall be confidential.
3. The Committee shall adopt its rules of procedure.

Article 16

The Commission shall submit an annual report on the implementation of this Regulation to the European Parliament and to the Council.

Article 17

This Regulation shall enter into force on the 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.

Done at

For the Council

The President

FINANCIAL STATEMENT

1. Budget heading concerned

Article 661 - Community operations concerning the environment
Item 6610 - Aid for the development of clean technologies which
cause little or no pollution and consume fewer
natural resources

2. Legal basis

- Council Declaration (First Programme) of 22 November 1973
(OJ N° C 112, 21.12.1973) ;
- Council Resolution (Second Programme) of 17 May 1977
(OJ N° C 139, 13.06.1977) ;
- Summary of the decisions taken at the Council meetings of 18 December
1978, 9 April 1979, and 3 December 1981.

3. Description and justification

General objective

To conserve and improve the environment by reducing pollutant emissions and nuisances, by generating less waste and consuming less raw materials materials.

Specific objective

To promote the development of new "clean" technologies which cause little or no pollution and consume fewer natural resources, notably raw materials. As a result of this development, to eliminate the social costs arising from pollutant emissions and nuisances, to increase the innovative capacity particularly of small and medium-sized undertakings in the Community, to exert a positive influence on the filing of licences and patents and on Member States' balance of payments and to generate new employment.

To achieve these objectives, a number of pilot projects in the field of clean technology will be launched and, where appropriate, subsidized (operating appropriations); technical and economic studies will also be made of other projects in order to obtain a more accurate assessment of their real impact on environmental improvement in the Community (study appropriations).

4. Financial implications

C R E D I T S	(in Ecus)	% CHANGE
1982 - Appropriations authorized	1.500.000	
1983 - Commitment appropriations requested	3.000.000	+ 100
- Payment appropriations requested	1.500.000	
1984 - Commitment appropriations requested	4.000.000	+ 33
- Payment appropriations requested	2.000.000	+ 33
1985 - Commitment appropriations requested	7.000.000	+ 75
- Payment appropriations requested	3.500.000	+ 80

5. Method of calculation and explanation of changes

a) Method of calculation

Since the 1982 budget was adopted, the Commission has received a great many requests for Community finance for these new technologies, the number of requests far exceeding current financial resources. The request for appropriations is based on the number of requests received.

b) Explanation of changes

The development of new technologies which cause little or no pollution and consume fewer natural resources, notably raw materials, is one of the objectives of the Second Action Programme on the Environment which stipulates that technical or other processes must be found for each polluting sector of industry which can reduce, eliminate or prevent the emission of polluting substances or the creation of nuisances. Such action is also consistent with the objectives of clean technology as stated by the Council at its meetings of 18 December 1978 and 9 April 1979.

The proposed appropriation will enable worthwhile Community-wide action to be taken in this field ; coordinated action of this kind is also likely to bring savings in the total effort required.

For this reason, and in view of the large number of requests for project finance, the proposed increase in the appropriations is warranted. The introduction of differentiated appropriations means it will be possible to finance long-term projects (lasting over 2 years).

F I N A N C I A L S T A T E M E N T

1. Budget heading concerned

Article 661 - Community operations concerning the environment
Item 6611 - Protection of the natural environment in certain
sensitive areas of Community interest

2. Legal basis

- Council Declaration (First Programme) of 22 November 1973 ;
- Council Resolution (Second Programme) of 17 May 1977.

3. Description and justification

General objective

To ensure the conservation of certain environmentally sensitive natural areas of the Community in order to preserve biotopes of Community interest and to protect flora and fauna. In addition, the preservation of the structure and physical equilibrium of certain areas of the Community threatened by natural hazards.

Specific objectives

To examine the possibility - on the basis of an appropriate descriptive survey - of participating at a Community level in projects centred on certain sensitive areas of Community interest aimed (i) at the conservation, management or acquisition of such areas by the public authorities or by authorized bodies and (ii) at the prevention of natural hazards through improved land use. If necessary, to contribute to the implementation of certain pilot schemes.

The general objective referred to above is contained in the Second Action Programme on the Environment under Title III. It also serves to promote implementation of the regulations already approved by the Council and the Directive of 2 April 1979 on the conservation of wild birds which - in conjunction with the Council Resolution of 2 April 1979 - lays particular stress on the preservation of homogeneous areas providing the habitat for certain species of fauna.

4. Financial implications

C R E D I T S	(in Ecu)	(in Ecu)	% CHANGE
1982 - Commitment appropriations authorized	2.500.000		
Payment appropriations authorized		1.000.000	
1983 - Commitment appropriations requested	3.500.000		+ 40
Payment appropriations requested		1.800.000	+ 80
1984 - Commitment appropriations requested	4.000.000		+ 15
Payment appropriations requested		2.000.000	+ 10
1985 - Commitment appropriations requested	6.000.000		+ 50
Payment appropriations requested		3.000.000	+ 50

5. Method of calculation and explanation of changes

The proposed appropriations will enable the Community to contribute significantly to solving a considerable environmental problem and, by coordinating measures at national level, to reduce any duplication of effort.

In 1982, the Commission received requests for financial intervention in excess of the funds available, which makes it necessary to adopt restrictive criteria for eligibility. The intention is to make advances which will make it possible to speed up the implementation of the projects. Moreover, the Community should participate financially, in the pilot operations as well as in the studies, if the desired objective is to be achieved. The requirements for both types of appropriation for 1983 have been based on the large number of requests received to date.