



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.05.1997
COM(97) 190 final

95/0167 (SYN)

Re-examined proposal for a

COUNCIL REGULATION (EC)

ON BUDGET LINE B7-6210 ON NORTH SOUTH COOPERATION
IN THE CAMPAIGN AGAINST DRUGS AND DRUG ADDICTION

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

In conformity with article 189 C, the Commission accepts the following amendments to the Council's common position that were voted by the European Parliament at the 2nd reading on the 13 of March 1997.

Amendment 1:

"Whereas one of the most important prerequisites in the fight against drugs is that poverty in the south should be drastically reduced and that people should have a legal alternative to the cultivation of illegal products."

The Commission is of the view that alternative development programs will have more chances to be successful if the economy of the countries facing illicit cultivation diversifies and if poverty is reduced because one of the main reasons that lead poor individuals peasants to cultivate coca or opium is that they have no other alternative to earn money.

Amendment 2:

Delete: "Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995 (1) is included in this Regulation for the period 1998-2000, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty":

The Commission is of the view that the amount allocated to the budget line is the sole responsibility of the Budgetary Authority.

Amendment 3:

"The Commission will seek to use its influence with the international donors and financial institutions (IMF, World Bank, etc) to avoid contradictions between their policies and the objectives of national drug control policies": The idea behind this amendment is to make sure that the policies of the Bretton Woods institutions are compatible and do not contradict with the objectives of the fight against drugs. Because the Commission generally speaking has not the status of a member of those I.F.I, it is more appropriate to refer to "the E.C (European Community).

Amendment 4:

"Criteria will be established for evaluating the progress of each initiative supported by the Community. These criteria, which will be mutually acceptable to the Community and partner governments or organizations, will be developed in a process of dialogue before Community financial assistance begins":

This amendment cannot be accepted because the Commission should maintain its own criteria to assess the way the programs that it has financed have been implemented.

Amendment 5:

"Promotion of pilot alternative development projects including projects that seek alternative production which can take advantage of trade preferences, particularly for the benefit of small independent producers of raw materials for illegal drugs. Pilot alternative development projects will be subject to the same requirements as other Community development projects (in terms of feasibility studies and participation of local people and target groups in identifying planning and carrying out operations and should be conceived as a process by which the production of illicit drug crops is eventually both combated and eliminated through appropriate rural development measures in the context of sustainable national economic growth. These projects shall comprise social and economic measures which take into account factors contributing to illicit production as well as measures which may facilitate improved use of commercial preferences. In this context there will be systematic appraisal of how greater use may be made of other Community financial instruments (e.g. the ALA) and the European Development Fund to support alternative development projects":

Alternative development programs are supported by the special regime of GSP granted to some latin american countries. The GSP contributes to the goal of replacing illicit activities by legal activities, either in the industrial or in the agricultural field. Because of the limited amount allocated to the budget line, it is useful to mention other sources of financement for alternative development projects on a large scale such as existing budget lines for technical cooperation for example.

Amendment 6:

Replace "particular attention shall be paid" by "Particular emphasis will be given to:

- measures to combat the production of and trade in heroin, cocaine and dangerous synthetic drugs
- the participation of local people and target groups in identifying, planning and carrying out operations; special attention shall be paid to the key position of women and the social and environmental implications of the measures;
- support for communities which have decided to give up production of drugs or precursors, in the form of help with the development of alternatives;
- measures to combat money laundering":

The surge of synthetic drugs must be properly addressed as well as the growing importance of money laundering. It is important to associate the people concerned with illegal crop cultivation to the definition and implementation of alternative development projects.

Amendment 7:

"The Community shall only support projects where respect for human rights is guaranteed":

It is crucial that in each program financed, the human rights dimension be properly addressed.

Amendment 8:

“The instruments to be employed in the course of the operations referred to in Articles 3 and 4 shall include technical assistance, training or other services, supplies and works. They shall also include preliminary studies and evaluation and monitoring audits, the cost of which shall not exceed 10% of the appropriations allocated to this item by the budgetary authority in each financial year.

Exceptionally, in the of the comprehensive evaluation due after three year, the cost may amount to up to 20% of those appropriations.”

Since 1987, a very low percentage of the budget line has been used for seminars, feasibility studies and assessments of program. The provisions of the article 12 make it necessary to plan more allocation of funds for external assessments of programs and projects in the future, while preserving the role of the budget line which is to finance programs. The 20% ceiling seems to be a good compromise in that respect.

Amendment 9 :

“Opportunities shall be sought for cofinancing, in particular with the Member States, with third countries or with multilateral, regional or other organizations”:

This amendment is appropriate because it widens the array of contributors to programs financed by the EC.

Amendment 10:

“In order to achieve the objectives of consistency and complementarity referred to in the Treaty and with the aim of guaranteeing optimum effectiveness of all these operations the Commission while having regard to the principles of sound management and avoiding excessive administrative costs, shall take all coordination measures necessary to maximize overall efficiency, including in particular”: This amendment is the statement of a principle of good management of programs.

Amendment 11:

“All necessary steps shall be taken to ensure that aid is properly evaluated, monitored and substantiated”:

This amendment is a statement of a principle of good management of programs.

Amendment 12 :

Delete: “The financial reference amount for the implementation of this program during the period 1998-2000 shall be ECU 30 million”:

The Commission is of the view that this matter is the only responsibility of the Budgetary Authority.

Amendment 13 :

Delete: "Projects and program appraisal shall take into account the following factors:

- effectiveness and viability of operators
- cultural, social, gender and environmental aspects
- institutional development necessary to achieve project goals
- experience gained from operations of the same kind."

The Commission must retain some room of manoeuvre to define, for each program and depending on each program's characteristics, the relevant criteria of assessment.

Amendment 14 :

Delete: "The information shall be made available no later than one week before the decision is taken."

The Commission is of the view that the general debate on the orientations for the use of the budget line at the beginning of each year and the information provided by the Commission in the PVD-ALA committee and in the annual report on the use of the budget line fully meet the objective of transparency.

Amendment 15 :

Delete: "and of" the recipient and replace by " ' " . Add "it may be extended to" instead of "and":

This amendment is the modified proposal of the Commission (dated 06.09.1996).

Amendment 16 :

Replace "shall" by "should" and replace the 2nd sentence by "Exceptions will be allowed with the prior agreement of the competent department, in particular where the partners would otherwise have to bear extra or excessive costs":

This amendment is the modified proposal of the Commission (dated 06.09.1996).

Amendment 17 :

Delete: "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 indication of achievement for all projects":

The principles of good management are already explained in amendment 10 and amendment 11 of the EP which are accepted by the Commission. Therefore there is no need of this additional statement.

Amendment 18 :

Replace: “geographically-determined committee competent for development by the Commission shall be assisted by an advisory committee made up of representatives from the Member States and chaired by a representative of the Commission, namely, depending on the recipient country or region.

- in the case of ACP countries, the EDF Committee set up by Article 21 of Internal Agreement 91/401/EEC on the financing and administration of Community aid under the fourth Lomé Convention, adopted on 16 July 1990 by the representatives of the Member States meeting with the council;
- in the case of the Mediterranean countries, the MED Committee set up by Article 6 of Council Regulation (EEC) No 1762/92 of 29 June 1992
- in the case of the Asian and Latin American countries, the ALA Committee set up by Article 15 of Council Regulation (EEC) No 443/92 of 25 February 1992.”:

This amendment aims at coming back to the proposal of the Commission dated 30 June 1995.

Amendment 19 :

Replace after “The urgency of the matter” by “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 for 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 opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.”

This amendment is the original proposal of the Commission as regards comitology (dated 30 June 1995).

Amendment 20 :

Add : “The joint meeting of the committees shall deliver an opinion on the general guidelines.”:

This was the original proposal of the Commission (dated 30 June 1995).

Amendment 21 :

Replace “at the end “ by Before 1 September in each budget year, the Commission shall present a report to Parliament and the Council including a list of the partners in cofinanced operations and the percentage of cofinancing, summarizing the operations

financed in the course of that year and providing a statistical evaluation of the implementation of this Regulation over that period.

The report shall in particular contain information about those with whom contracts have been concluded.”:

This amendment is not acceptable because by September, not all the funds of the budget line are engaged. Therefore, the information that would be provided by the Commission by the 1st of September of each year would not be accurate.

Amendment 22 :

Delete: “The Commission shall regularly assess operations financed by the Community with a view to establishing whether the objectives aimed at by such operations have been achieved and to provide guidelines for improving the effectiveness of future operations. The Commission shall submit to the Committee referred to in Art. 10 a summary of the assessments made which, if appropriate, may be examined by the Committee. The assessment reports shall be made available to any Member States requesting them.

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

The amendments 10 and 11 of the EP already cover this issue. This is the reason why the Commission approves amendment 22 of the EP.

Amendment 23 :

Replace “terminating it” in art.12 by “amending it”:

The Commission shares the view of the EP that a regulation whose adoption will have taken 2 years should only be examined three years after its entry into force with the view to amend it if there is a strong case for it but not with the view to abolish it.

**RE-EXAMINED PROPOSAL FOR A
COUNCIL REGULATION (EC)**

**ON BUDGET LINE B7-6210 ON NORTH SOUTH COOPERATION
IN THE CAMPAIGN AGAINST DRUGS AND DRUG ADDICTION**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission;

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

Whereas the impact on the structures of a developing society of an economy based on the production of drugs, or which derives a substantial revenue from them, undermines a country's smooth integration in to the world economy;

Whereas the breakdown of social structures in developing countries due to drug consumption and the related industry is detrimental to sustainable social development and the attainment of the goals of Community Policy in the sphere of development cooperation as defined in Article 130u of the Treaty;

Whereas one of the most important prerequisites in the fight against drugs is that poverty in the south should be drastically reduced and that people should have a legal alternative to the cultivation of illegal products;

Whereas institutional support should be given to those developing countries which so request so that they can combat drugs more effectively;

Whereas in a communication to the Parliament and to the Council dated 23 June 1994, the Commission presented its guidelines for a European plan of action on drugs for 1995-99, including measures at international level;

Whereas Parliament stated its views on the guidelines in its Opinion on the Communication, adopted on 15 June 1995;

Whereas the Fourth ACP-EC Convention and the Cooperation, Association and Partnership agreements concluded by the European Community with developing countries contain clauses on cooperation to curb drug abuse and drug trafficking, the monitoring of trade in precursors, chemical products and psychotropic substances and the exchange of relevant information, including measures in the field of money laundering; whereas there is a relationship between campaign against drugs and drug addiction and the aims of the cooperation policy pursued by the Community and its developing country partners;

Whereas the international community's strategy to curb drug abuse and drug trafficking is based on universal accession to the Single Convention on narcotic drugs of 1961, as amended by the Protocol of 1972, the Convention on psychotropic substances of 1971 and the International Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988, and on the systematic implementation of those conventions at national and international level;

Whereas the European Community is a party of the Convention of 1988, in particular by virtue of Article 12 of that Convention, and has adopted Community legislation based on the recommendations of the Chemical Action Task Force set up by the G 7 and the President of the Commission in 1989, the effectiveness of which would be generally enhanced by the adoption of the relevant legislation and procedures in other parts of the world;

Whereas effective action against drugs must also encompass measures against the laundering of money from drug trafficking, such as the adoption of a suitable legal framework and appropriate mechanisms in the countries concerned;

Whereas human rights must be duly respected in implementing measures under this Regulation;

Whereas the Member States of the European Community have endorsed the policy statement and general plan of action adopted by the UN General Assembly at its 17th special session;

HAS ADOPTED THIS REGULATION:

Article 1

In the framework of its development cooperation policy and taking account of the harmful effects on development efforts of the production, trading and consumption of drugs, the Community shall carry out cooperation activities in the field of drugs and drug addiction in developing countries, giving priority to those which have demonstrated political will at the highest level to solve their drug problem. The existence of such will may be demonstrated inter alia by ratification of the Single Convention of 1961 as amended by the Protocol of 1972, the Convention of 1971 and the Convention of 1988. Commitment on the part of developing countries shall take the form inter alia of the implementation of domestic legislation against laundering of money generated through illicit drugs.

Article 2

The assistance provided under this Regulation shall complement and reinforce assistance provided under other instruments of development cooperation.

Article 3

The Community shall give priority at the request of a partner country to supporting the preparation of a national drug control master plan, in close consultation with the United Nations International Drug Control Programme (UNDCP). These plans will identify objectives, strategies and priorities in the campaign against drugs and the related resource requirements (including financial requirements), thus establishing an integrated, multidisciplinary and multisectoral approach designed to maximize the efficiency of national drug control programmes and international assistance.

The prevention of drug addiction, together with demand reduction, shall be addressed in a consistent policy comprising education and objective information about the consequences of addiction, targeted especially at young people. Community cooperation shall take place in a spirit of dialogue reflecting the genuine cultural differences which affect the perception of drug-related problems, this being crucial to ensure the social and political viability of drug control strategies.

The European Community will seek to use its influence with the international donors and financial institutions (IMF, World Bank, etc) to avoid contradictions between their policies and the objectives of national drug control policies.

Article 4

Preferably operating within the strategic framework established by the national plans, the Community shall also support specific operations capable of a measurable impact (i.e. effective and tangible results within a time-limit set in advance) in the following areas:

- development of institutional capacity, in particular for the implementation of:

- National Drug Control Master Plans by developing countries,
- agreements between the Community and certain developing countries, in particular to combat the diversion of chemical precursors and to curb money laundering,

- demand reduction, in particular through analysis of local patterns, the introduction of measures to control trade in and consumption of narcotics and psychotropic substances, treatment and reintegration of drug addicts, as well as risk limitation. These measures must be integrated into policies on health and education, development and combating poverty and social and economic exclusion.

Promotion of pilot alternative development projects including projects that seek alternative production which can take advantage of trade preferences, particularly for the benefit of small independent producers of raw materials for illegal drugs. Pilot alternative development projects will be subject to the same requirements as other Community development projects (in terms of feasibility studies and participation of local people and target groups in identifying planning and carrying out operations and should be conceived as a process by which the production of illicit drug crops is eventually both combated and eliminated through appropriate rural development measures in the context of sustainable national economic growth. These projects shall comprise social and economic measures which take into account factors contributing to illicit production as well as measures which may facilitate improved use of

commercial preferences. In this context there will be systematic appraisal of how greater use may be made of other Community financial instruments (e.g. the ALA) and the European Development Fund to support alternative development projects.

Financing of studies, seminars and fora for the exchange of experience in the above fields.

“Particular emphasis will be given to:

- measures to combat the production of and trade in heroin, cocaine and dangerous synthetic drugs
- the participation of local people and target groups in identifying, planning and carrying out operations; special attention shall be paid to the key position of women and the social and environmental implications of the measures;
- support for communities which have decided to give up production of drugs or precursors, in the form of help with the development of alternatives;
- measures to combat money laundering

The Community shall only support projects where respect for human rights is guaranteed.

Article 5

The cooperation partners eligible of financial support under this Regulation shall be regional and international organizations, in particular UNDCP, local- and Member State-based non-governmental organizations, national, provincial and local government departments and agencies, community-based organizations, institutes and public and private operators.

Article 6

1. The instruments to be employed in the course of the operations referred to in Articles 3 and 4 shall include studies, technical assistance, training or other services, supplies and works, along with audits and evaluation and monitoring missions. They shall also include preliminary studies and evaluation and monitoring audits, the cost of which shall not exceed 10% of the appropriations allocated to this item by the budgetary authority in each financial year.

Exceptionnally, in the of the comprehensive evaluation due after three year, the cost may amount to up to 20% of those appropriations.

2. According to the needs of the operations concerned, Community financing may cover both capital investment, other than the purchase of real estate, and operation costs in foreign or local currency. However, with the exception of training programmes, operating costs may normally be covered only during the start-up phase and on a degressive basis.

3. A financial contribution from the partners defined in Article 5 shall be sought for each cooperation operation. Their contribution will be requested within the limits of the possibilities available ot the parties concerned and depending of the nature of the operation concerned.

4. A financial contribution from the local partners, particularly in respect of operation costs, shall be sought as a matter priority in the case of projects intended to launch long term activities, so as to ensure the viability of such projects once Community funding comes to an end.

5. Opportunities shall be sought for cofinancing, in particular with the Member States, with third countries or with multilateral, regional or other organizations.

6. The Commission will ensure that the Community character of the aid provided under this Regulation is highlighted.

7. In order to achieve the objective of consistency and complementarity referred to in the Treaty and with the aim of guaranteeing optimum effectiveness of all these operations, the Commission while having regard to the principles of sound management and avoiding excessive administrative costs, shall take all coordination measures necessary to maximize overall efficiency, including in particular

- a) a system for the systematic exchanges and analysis of information on operations financed and those which the community and the Member States propose to finance;
- b) on-the-spot coordination of the implementation of operations through regular meetings and exchange of information between representatives of the Commission and of the Member States in the beneficiary country.

8. In order to obtain the greatest possible impact globally and nationally, the Commission, in liaison with the Member States, shall take an initiative necessary for ensuring proper coordination and close collaboration and close collaboration with the beneficiary those forming part of the United Nations system and more specifically the UNDCP.

Article 7

Financial support under this Regulation shall take the form of grants. All necessary steps shall be taken to ensure that aid is properly evaluated, monitored and substantiated.

Article 8

Annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspectives.

Article 9

1. The Commission shall be responsible for appraising, approving and managing operations covered by this Regulation in accordance with 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 ECU 2 million for individual operations financed under this Regulation and any changes resulting in an increase of more than 20 % in the sum initially approved for such an operation shall be adopted under the procedure laid down in Article 10.

3. The Commission shall be authorized to approve, without recourse to the opinion of the Committee provided for in Article 10, any supplementary commitments needed for covering expected or real costs overruns in connection with the operations, where the overrun of 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 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.

5. Where operations are the subject of financing agreements between the Community and the recipient country, such agreement 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 natural and legal persons of the Member States, "recipient" countries. It may be extended to other developing countries.

7. Supplies should originate in the Member States, the recipient country or other developing countries. Exceptions will be allowed with the prior agreement of the competent department, in particular where the partners would otherwise have to bear extra or excessive costs.

Article 10

1. The Commission shall be assisted by an advisory committee made up of representatives from the Member States and chaired by a representative of the Commission, namely, depending on the recipient country or region.

- in the case of ACP countries, the EDF Committee set up by Article 21 of Internal Agreement 91/401/EEC on the financing and administration of Community aid under the fourth Lomé Convention, adopted on 16 July 1990 by the representatives of the Member States meeting with the council;
- in the case of the Mediterranean countries, the MED Committee set up by Article 6 of Council Regulation (EEC) No 1762/92 of 29 June 1992
- in the case of the Asian and Latin American countries, the ALA Committee set up by Article 15 of Council Regulation (EEC) No 443/92 of 25 February 1992.

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 opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

3. 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 paragraph 10. The joint meeting of the committees shall deliver an opinion on the general guidelines.

Article 11

At the end of each budget year, the Commission shall present a report to the Parliament and the Council summarizing the operations financial in the cause of that year and evaluating the implementation of this regulation that period. The report shall in particular contain information about those with whom contracts have been concluded. It shall also summarize any independant evaluations conducted of specific operation.

Article 12

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

2. Three years after this Regulation enters into force, the Commission shall submit to the European Parliament and the Council an overall assessment of operations financed by the Community under thsi Regulation together with suggestionn regarding the future of this Regulation and, where necessary, proposals for amending it.

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

Done at Brussels

For the Council
The President

ISSN 0254-1475

COM(97) 190 final

DOCUMENTS

EN

05 11 01

Catalogue number : CB-CO-97-180-EN-C

ISBN 92-78-19080-2

Office for Official Publications of the European Communities

L-2985 Luxembourg