

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93)130 final

Brussels, 22 March 1993

Amended proposal for a

COUNCIL REGULATION (EEC)

ESTABLISHING A COHESION FINANCIAL INSTRUMENT

(presented by the Commission pursuant to Article 149(3)  
of the EEC-Treaty)

EXPLANATORY MEMORANDUM

On 11 March 1993 Parliament gave its opinion on the Commission proposal in the document.

This amended proposal takes account of the amendments proposed by Parliament which the Commission is able to accept.

AMENDMENT TO THE PROPOSAL FOR A

COUNCIL REGULATION (EEC)

ESTABLISHING A COHESION FINANCIAL INSTRUMENT

(COM(92) 599 final of 22 December 1992)

In response to Parliament's opinion on the proposal for a Regulation establishing a cohesion financial instrument transmitted by the Commission to the Council and pursuant to Article 149(3) of the Treaty establishing the European Economic Community, the Commission has decided to amend that proposal as follows.

1. The following recital is inserted before the first recital in the Commission text:

"Whereas one of the Community's fundamental tasks is to encourage economic and social cohesion and solidarity between the Member States as essential goals so far as its development and success are concerned;"

2. The following recital is inserted after the second recital in the Commission text:

"Whereas on 10 June 1992 the European Parliament adopted a resolution on the Commission communication 'From the Single Act to Maastricht and beyond: the means to match our ambitions';<sup>1</sup>".

3. A further recital is added to that recital:

"whereas the European Councils of Lisbon on 26 and 27 June 1992 and Edinburgh on 11 and 12 December 1992 adopted conclusions concerning the establishment of the Cohesion Fund;"

4. The third recital in the Commission text is replaced by:

"Whereas the European Council, at its meeting in Edinburgh on 11 and 12 December 1992, proposed creating an interim financial instrument pending the establishment of the Cohesion Fund and named the eligible States, the criteria and indicative allocation brackets in such a way as to ensure the immediate provision of financial aid to Ireland, Greece, Portugal and Spain in the areas to be covered by the Cohesion Fund;"

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1 OJ No C 176, 13.7.1992, p. 74.

5. A further recital is added to that recital:

"whereas the purpose of the financial instrument is to support the efforts required of the recipient States with a view to convergence;"

6. In the fourth recital in the Commission text "before 31 December 1993" is deleted.

7. The following recital is inserted between the seventh and eighth recitals:

"Whereas account must be taken of the major unavoidable development efforts required of certain Member States with a view to the necessary convergence of their respective economies;"

8. The tenth recital is replaced by:

"Whereas, in the light of an undertaking by the Member States concerned not to decrease their investment efforts in the fields of environmental protection and transport infrastructure and in the light of the budgetary demands which the convergence programmes place on the beneficiary countries, additionality in the sense of Article 9 of Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments will not apply to the cohesion financial instrument;"

9. The following recital is added to the tenth recital:

"whereas the Commission's Green Paper on the Impact of Transport on the Environment (COM(92) 46) stressed the need to develop a transport network which better respected the environment;"

10. The thirteenth recital is replaced by:

"Whereas the operations of the cohesion financial instrument must be consistent with Community policies, inter alia those regarding environmental protection, transport, competition and the award of public contracts and whereas adequate information must be provided to ensure this;".

11. The following recital is added to the fourteenth recital:

"whereas an appropriate balance must be ensured between financing for environmental projects and for transport infrastructure projects;".

12. The fifteenth recital is replaced by:

"Whereas economic and social cohesion actions together with the objective of controlling public deficits will mean that a high rate of assistance is necessary;".

13. The sixteenth recital is replaced by:

"Whereas, in the interests of the proper management of the cohesion financial instrument, it is necessary to ensure effective methods of monitoring, assessing and carrying out checks in respect of Community operations;".

14. A new recital is added after the sixteenth recital:

"Whereas adequate information should be provided, in particular through the annual report referred to in Article 10 of this Regulation and in Annex II hereto;".

15. The second indent of Article 2 is replaced by:

"- transport infrastructure projects of common interest financed by the Member States which promote the interconnection and interoperability of national networks and access to such networks, taking account in particular of the need to link insular, landlocked or peripheral regions with each other and with the central regions of the Community, in particular the projects which are provided for in trans-European network schemes which have been adopted by the Council or proposed by the Commission pursuant to Part Two, Title IV of the Treaty;"

16. Article 3 is replaced by:

"1. The commitment appropriations considered necessary for the financial instrument shall be ECU 1 500 million in 1993 and ECU 1 750 million in 1994, expressed in 1992 prices.

2. The budgetary authority shall decide, as part of the budget procedure, what appropriations are to be made available for each financial year."

17. Article 5(2) is replaced by:

"2. Preliminary studies and technical support measures necessary for the implementation of eligible projects may be financed at 100% of their total cost."

18. The following paragraph 2a is added to Article 5:

"2a. The effective rate of assistance shall be established in accordance with the nature of the operations to be undertaken."

19. Article 9 is replaced by:

" Financial provisions, monitoring and assessment

1. The Commission may, in agreement with the beneficiary Member State concerned, identify within a project stages regarded as technically and financially independent for the purposes of granting assistance from the financial instrument.

2. Expenditure shall not be eligible for assistance under the financial instrument if it had been committed before the Commission received the relevant application. However, in the case of applications submitted to the Commission before 1 September 1993, expenditure committed after 1 January 1993 may be taken into consideration.

3. For the purpose of implementing this Regulation, the following provisions of Titles VI and VII of Regulation (EEC) No 4253/88 shall apply mutatis mutandis: Article 19(1), Article 20(1), Article 21(1) with the exception of the last sentence, Article 21(5) and (7), Articles 22, 23 and 24 and Article 25 with the exception of the last sentence of paragraph 4 and paragraph 7.

4. The total amount of assistance granted by the instrument for each operation (project, stage of a project, study or technical support measure) shall be committed when the Commission adopts the decision approving the operation.

5. Assistance granted to a project or stage of a project shall be paid according to the following procedure:



- (a) The advance made following each commitment may be up to 50% of the amount of assistance relating to expenditure in the first year as it appears in the financing plan approved by the Commission. However, exceptionally for 1993, this advance may be up to two thirds of that amount for projects submitted before 1 September 1993.
- (b) Intermediate payments may be made provided that the project is progressing satisfactorily towards completion and that two thirds of the expenditure relating to the previous payment and all expenditure relating to earlier payments have been made. Intermediate payments may amount to up to 50% of assistance relating to expenditure planned for the year in question as shown in the financing plan approved by the Commission, adapted, if necessary to take account of the state of progress of the project.
- (c) The balance of assistance shall be paid provided that:
- the project or stage of the project has been carried out according to the objectives laid down;
  - the beneficiary Member State or designated authority submits an application for payment to the Commission within six months of physical completion of the project or stage of the project, and
  - the final report referred to in Article 25(4) of Regulation No 4253/88 has been submitted to the Commission.

The balance may not be less than 20% of the total assistance granted.

6. Payment shall be made to the authority or body designated by the Member State, as a general rule within two months of receipt of a valid application.

7. Beneficiary Member States shall provide the Commission with a description of the management and control systems established to ensure the efficient implementation of projects.

The Commission shall examine applications to verify in particular that the administrative and financial mechanisms are appropriate for effective implementation.

The beneficiary Member States shall regularly inform the Commission of all cases of irregularities detected by an administrative authority or which have resulted in judicial proceedings. The beneficiary Member States and the Commission shall take the necessary steps to ensure that the information exchanged between them remains confidential.

8. In order to ensure the effectiveness of Community assistance, the Commission and the beneficiary Member States concerned, in cooperation where appropriate with the EIB, shall undertake a systematic assessment of projects.

On receipt of an application for assistance and before the projects are approved, the Commission shall thoroughly examine the application to establish that it meets the criteria in Article 8(5) of this Regulation and to determine the impact expected in terms of the objectives of the financial instrument, quantified using appropriate indicators. The beneficiary Member States concerned shall provide all necessary information, including the results of feasibility studies and ex-ante assessments, to make this assessment as effective as possible.

During the implementation of projects and after their completion, the Commission and the beneficiary Member States shall assess the way in which the projects are or were implemented and the potential and actual impact of their implementation in order to assess whether the original objectives may be or have been achieved.

9. The details of this monitoring and assessment shall be specified in the decisions approving the projects."

20. Article 10(1) is replaced by:

"1. The Commission shall present an annual report on the activities of the financial instrument to the Council, the European Parliament and the Economic and Social Committee. The report shall set out in an annex the list and content of the projects selected by Member State.

The European Parliament shall deliver an opinion on the report as rapidly as possible. The Commission shall give details of measures taken in response to the comments made in Parliament's opinion."

21. Article 10(2) of the Commission text is replaced by:

"2. Member States shall ensure that adequate publicity is given to the operations of the financial instrument with a view to making the general public aware of the role played by the Community in relation to projects. They shall consult the Commission on, and inform it about, the initiatives taken for this purpose. In particular, Member States shall ensure the placement of clearly visible signs indicating the percentage of the cost of a particular project being financed by the Cohesion Fund."

22. Articles 11 and 12 of the Commission text are replaced by:

" Entry into force

This Regulation shall enter into force on 1 April 1993.

It shall remain in force until the entry into force of a regulation establishing a Cohesion Fund and in any case no later than 1 April 1994.

If no regulation establishing the Cohesion Fund has come into force by 1 April 1994, the Council, acting by a qualified majority on a proposal from the Commission, shall decide on the extension of the financial instrument for a limited period in order to ensure continuity between the financial instrument and the Cohesion Fund.

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

Done at Brussels,

For the Council  
The President

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ISSN 0254-1475

COM(93) 130 final

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**Catalogue number : CB-CO-93-155-EN-C**

**ISBN 92-77-54015-X**

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**Office for Official Publications of the European Communities**

**L-2985 Luxembourg**