

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 362 final

Brussels, 1 October 1991

Amendment to the proposal for a

COUNCIL REGULATION (EEC)

*establishing a financial instrument*

*for the environment (LIFE)*

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

EXPLANATORY MEMORANDUM

1. On 31 January 1991 the Commission submitted to the Council the proposal for a Regulation establishing a Financial Instrument for the Environment (LIFE) (COM(91)28 final. The objective of this action is to establish a financial instrument for the environment which provides a coherent financial framework and is better adapted to Community action in the field of the environment.
2. On 13 September 1991 the European Parliament expressed its opinion on the Commission's proposal by adopting report PE 146.246/fin from Mr Muntingh.
3. At the same sitting of Parliament the Commission explained its reasons for refusing 11 of these amendments and accepting the other 38.  
The amendments accepted are useful additions which improve on the Commission's original text.
4. The attached text is intended to inform the Council of the amendments which the Commission has accepted and incorporated in its proposal, pursuant to Article 149(3) of the EEC Treaty.

(Amendment No. 1)  
First citation a (new)

Having regard to the European Parliament's vote on the 1991 budget and its resolution of 13 December 1990(1),

(1) OJ No. C 19, 28.1.1991, p. 220

(Amendment No. 2)  
Second recital

Whereas, by virtue of Article 130r, Community action with respect to the environment aims, in particular, to preserve, protect and improve the quality of the environment, and that in the elaboration of this action, it will take account, inter alia, of environmental conditions in the different regions of the Community as well as of the economic and social development of the Community as a whole and of the balanced development of its regions;

Whereas, by virtue of Article 130r, Community action with respect to the environment aims, in particular, to preserve, protect and improve the quality of the environment and to ensure the careful, rational use of natural resources, and that in the elaboration of this action, it will take account, inter alia, of environmental conditions in the different regions of the Community as well as of the economic and social development of the Community as a whole and of the balanced development of its regions;

(Amendment No. 3)  
Second recital a (new)

Whereas the Community Member States should develop solidarity involving the transfer of technological know-how and shared responsibility for protecting the biological diversity of the natural ecosystems in the Community; whereas this solidarity should also embrace the provision of suitable funding;

(Amendment No. 4)  
Second recital b (new)

Whereas environmental measures should also be taken to safeguard public health and the well-being of the Community's wild flora and fauna;

(Amendment No. 6)  
Fifth recital

Whereas at its meeting on 25 and 26 June 1990 the European Council adopted a declaration setting out guidelines for future action by the Community relating to the environment, in which it indicates that the legislative approach should be supplemented, where appropriate, by economic and fiscal measures;

Whereas at its meeting on 25 and 26 June 1990 the European Council adopted a declaration setting out guidelines for future action by the Community relating to the environment, in which it indicates that the legislative approach should be supplemented, where appropriate, by economic and fiscal measures, so that environmental considerations can be taken fully into account in other policy areas, pollution prevented at source and/or the polluter-pays principle implemented;

(Amendment No. 7)  
Seventh recital

Whereas an analysis of the budgetary resources has revealed a rapid increase in environmental expenditure through a great number of financing sources answering objectives and constraints inherent to the financial instruments used;

Whereas an analysis of the budgetary resources has revealed a rapid increase in environmental expenditure through a great number of financing sources answering objectives and constraints inherent to the financial instruments used, with the result that the majority of them do not give the highest priority to preserving, protecting and improving the quality of the environment;

(Amendment No. 9)  
Eighth recital a (new)

Whereas, pursuant to Article 130r(4) of the Treaty and without prejudice to the entry into force of LIFE, which is a Community instrument and is based on the principle of solidarity, the Member States should not escape their responsibility for a national environmental policy aimed at the sustainable use of natural resources;

(Amendment No. 10)  
Ninth recital

Whereas it is necessary, in order to achieve the aim set by Article 130r of the Treaty, to define the instrument's general objectives, whilst respecting the principle of concentration of resources, to specify the main categories of tasks assigned to it as well as to define the types of measures LIFE may support; that these measures may aim to complete actions already decided on and implemented, particularly for the protection and safeguard of forests;

Whereas it is necessary, in order to achieve the aim set by Article 130r of the Treaty, to define the instrument's general objectives, in the long and short term, whilst respecting the principle of concentration of resources, to specify the main categories of tasks assigned to it as well as to define the types of measures LIFE may support; that these measures may aim to complete actions already decided on and implemented, particularly for the protection and safeguard of forests;

(Amendment No. 11)  
Ninth recital a (new)

Whereas it is necessary, in order to achieve the aim set by Article 130r of the Treaty, to adopt both preventive and restorative measures to improve the environment; whereas, in this case, prevention is the most effective method and should be given preference;

(Amendment No. 12)  
Ninth recital b (new)

Whereas the European Parliament has repeatedly insisted on the need for coherence, in particular with a view to the drawing-up of the 1990 and 1991 budgets and has, more precisely, advocated a Financial Instrument for the Environment (LIFE) capable of tackling the problems to be resolved and commensurate with the role which the Community has to play in this area,

(Amendment No. 14)  
Eleventh recital

Whereas in order to ensure LIFE's greater financial efficiency and to respond better to beneficiaries' aspirations, close consultations should be instituted between the Commission, the Member State concerned and the other economic and social partners concerned by the operations of LIFE, with each party acting as a partner, within the framework of its responsibilities and powers, in the pursuit of a common goal;

Whereas in order to ensure LIFE's greater financial efficiency and to respond better to beneficiaries' aspirations, close consultations should be instituted between the Commission, the Member State concerned and the other economic and social partners and NGOs concerned by the operations of LIFE, with each party acting as a partner, within the framework of its responsibilities and powers, in the pursuit of a common goal;

(Amendment No. 15)  
Twelfth recital a (new)

Whereas, because of the increase in economic activity following the completion of the internal market, the Community's environment will be placed under further stress; whereas the Community therefore has the obligation to adopt environmental measures to combat, and where possible prevent, the additional pollution of the environment it has caused;

(Amendment No. 16)  
Fourteenth recital

Whereas it is necessary to establish effective methods of monitoring, assessment and evaluation as well as to ensure adequate information for potential beneficiaries and for the public;

Whereas monitoring, control and evaluation must be effective and whereas, therefore, there is an urgent need for information to be widely available to the general public, the social partners concerned and the potential beneficiaries;

(Amendment No. 18)  
Fifteenth recital b (new)

Whereas LIFE and its expansion into a full financial instrument is an absolute prerequisite and perhaps even the last opportunity for the development of a European environmental policy which can deal effectively with the Community's immense environmental problems and ensure the continued existence of the people of Europe in a healthy environment;

(Amendment No. 20)  
Article 1(3)

3. LIFE shall incorporate existing financial instruments: Council Regulation (EEC) No. 2242/87 of 23 July 1987 on action by the Community relating to the environment<sup>1</sup> (ACE) as well as Council Regulation (EEC) No. /91 of ..... 1991 relating to a Community action for the protection of the environment in the Mediterranean region (MEDSPA).

3. LIFE shall incorporate existing financial instruments: Council Regulation (EEC) No. 2242/87 of 23 July 1987 on action by the Community relating to the environment<sup>1</sup> (ACE) as well as Council Regulation (EEC) No. 563/91 of 4 March 1991 relating to a Community action for the protection of the environment in the Mediterranean region<sup>2</sup> (MEDSPA), the Council Regulation on action by the Community relating to nature conservation (ACNAT)<sup>3</sup> and the Council Regulation on specific action to protect the environment in the coastal areas and coastal waters of the Irish Sea, North Sea, Baltic Sea and North East Atlantic Ocean (NORSPA)<sup>4</sup>.

<sup>1</sup> OJ No. L 207, 29.7.1987, p.8

<sup>1</sup> OJ No. L 207, 29.7.1987, p.8

<sup>2</sup> OJ No. L 63, 9.3.1991, p.1

<sup>3</sup> COM(90) 0125

<sup>4</sup> COM(90) 0498

(Amendment No. 21)

Article 1a (new)

LIFE's purpose shall be to contribute to the implementation of Community legislation with regard to nature and the environment and of the objectives of the current environmental action programme by financing:

1. priority programmes and actions in the environmental sector in the Community;

2. programmes and actions under international agreements of which the Community is a signatory;

(Amendment No. 23)

Article 3(1)

1. By 30 September each year, the Commission shall establish, in accordance with the principle of concentration, after consultation with the Committee provided for in Article 13 and on the basis of the provisions of this Regulation and of the Community action programme for the environment, the general objectives and the pluriannual operations as well as the related performance indicators and the criteria governing the choice of individual measures to be financed by LIFE.

1. By 30 September each year, the Commission shall establish the specific objectives. The relevant performance indicators and the criteria to be used shall also be established. This shall occur in consultation with the advisory committee referred to in Article 13 and on the basis of the provisions of this Regulation and of the current Community action programme for the environment. The Commission shall immediately publish these objectives and criteria in the Official Journal of the European Communities.



(Amendment No. 24)  
Article 3(2)

2. However, in the course of an initial phase covering 1991 and 1992, LIFE shall finance the following actions as a priority:

- actions answering the eligibility criteria of the existing environmental financial instruments (ACE, MEDSPA);
- actions aiming to resolve particularly serious environmental problems or problems of particular Community interest;
- technical assistance and financial support actions in third countries

2a. However, in the course of an initial phase covering 1991 and 1992, LIFE shall finance the following actions as a priority:

- i. actions answering the eligibility criteria of the existing environmental financial instruments (ACE, MEDSPA, NORSPA, ACNAT);
- ii. actions aiming to resolve particularly serious environmental problems or problems of particular Community interest;
- iii) technical assistance and financial support actions in third countries

b. In addition, a start shall be made on:

- i. the implementation of the general objectives in Article 2;
- ii. actions which are aimed at providing industrial sectors with a Community based approach to existing or future environmental problems related to these branches of industry.

(Amendment No. 25)

Article 3a (new)

ConditionsPriority shall be given to programmes and actions:

- a. where a Community interest is concerned,
- b. where the polluter-pays principle cannot be applied,
- c. which are aimed at a sustainable use of natural resources,
- d. which are clearly of a transnational, Community or international nature,
- e. which are designed to be more stringent than the Community's environmental standards or legislation or which are intended to meet these more quickly,
- f. which make a major contribution to Community legislation with regard to nature and the environment,
- g. where the principle of Community solidarity is essential for solving problems relating to the environment and nature.

(Amendment No. 26)

Article 4, points (a) to (e)

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| (a) part-financing of programmes;  | (a) <del>(part)</del> financing of programmes;         |
| (b) part-financing of <u>projects</u> ;  | (b) <del>(part)</del> financing of <u>operations</u> ; |
| (c) interest subsidies;  | (c) interest subsidies;                                |
| (d) reimbursable subsidies;  | (d) reimbursable subsidies;                            |
| (e) support for technical assistance and <u>studies in preparation for operations.</u> | (e) support for technical assistance and operations.   |
|  | (ea) <u>investment subsidies.</u>                      |

(Amendments Nos. 46 and 27)

Article 7

To this end, national partnership committees shall be established in the Member States in order to prepare and monitor the execution of the operations financed by LIFE.

These committees, with 10 to 15 members, shall comprise representatives of the competent authorities and representatives of the environmental movements, consumer organizations, industry and trade unions and/or independent experts.

For the transnational or transsectoral operations, the Commission shall establish an appropriate partnership committee at Community level.

(Amendment No. 28)

Article 8, first subparagraph a (new)

Until 31 December 1992 the appropriations voted for the objectives listed in Article 3(2) shall be specified separately in the budget. This shall also apply to the financial instruments referred to in Article 3(2a).

(Amendment No. 31)

Article 8, second subparagraph c (new)

If the sums provided relate to programmes or actions which, on the basis of the polluter pays principle, are recovered by the Member States from the polluter, the Member States shall pay the subsidies provided by the Community back to the Commission, which shall again allocate them for LIFE.

(Amendment No. 32)

Article 9

Differentiation of rates of assistance

Differentiation of rates of assistance and financial criteria

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1. The Community contributions to the financing of operations shall be differentiated in the light of the following:

- the seriousness of the specific, notably regional, environmental problems to be tackled;
- the special importance attaching to the measures from a Community viewpoint;
- the capacity of the country or of the beneficiary to contribute.

2. The rates of Community assistance granted under LIFE shall be subject to the following ceilings:

- a maximum of 30% of the total cost in the case of private investments;
- a maximum of 50% of the total cost in the case of public investments and pilot or demonstration projects;
- exceptionally, a maximum of 75% of the cost in the case of biotopes or habitats of Community interest;
- exceptionally, a maximum of 100% of the total cost in the case of measures destined to acquire the information required to undertake an action as well as for technical assistance.

1. The Community contributions to the financing of operations shall be differentiated in the light of the following:

- the seriousness of the specific, notably regional, environmental problems to be tackled;
- the special importance attaching to the measures from a Community viewpoint for the protection of the natural heritage and for public health;
- the capacity of the country or of the beneficiary to contribute (principle of solidarity).

2. The rates of Community assistance granted under LIFE shall be subject to the following ceilings:

- a maximum of 15% in the case of investment subsidies;
- a maximum of 30% of the total cost in the case of private investments;
- a maximum of 50% of the total cost in the case of public investments and pilot or demonstration projects;
- exceptionally, a maximum of 75% of the cost in the case of biotopes or habitats of Community interest. The Commission can decide to bear up to 100% of the costs if plants or animal species are at risk of extinction;
- exceptionally, a maximum of 100% of the total cost in the case of measures destined to acquire the information required to undertake an action as well as for technical assistance.
- exceptionally, a maximum of 100% of the total cost in the case of urgent actions where the polluter is not yet known. When the polluter has been identified the costs should be recovered from him in accordance with the procedure in Article 8, second subparagraph c.

(Amendment No. 34)  
Article 10(3), second subparagraph (new)

c) The Commission shall announce its choice by 30 June at the latest.

(Amendment No. 35)  
Article 10(5a) (new)

5a. The Commission shall publish the programmes and operations chosen in the Official Journal.

(Amendment No. 36)  
Article 10(5b) (new)

5b. The Commission may decide to institute a six-monthly application procedure.

(Amendment No. 37)  
Article 11

Without prejudice to checks carried out by national authorities in accordance with national laws, regulations and administrative provisions, and without prejudice to Article 206 of the Treaty or to any inspection carried out on the basis of Article 209(c) of the Treaty, the Commission may carry out on-the-spot checks in conformity with the procedures set out in the financial regulations, including sample checks, in respect of actions financed by LIFE, and may examine the control systems and measures established by national authorities, which inform the Commission of the measures taken in this respect.

1. In order to ensure the success of the activities carried out by those receiving financial aid, the Commission shall adopt the necessary measures:

- to verify and monitor that the operations financed by the Community are carried out properly;
- to prevent and deal with irregularities;
- to recover funds lost through abuse or negligence.

2. Without prejudice to the checks carried out by the Court of Auditors in conjunction with the national control bodies or services, pursuant to Article 206a of the Treaty, and all the inspections carried out pursuant to Article 209c of the Treaty, officials and other staff of the Commission may monitor the activities financed under the Community project on the spot, including by means of sample checks.

The Commission shall inform the beneficiary in advance of an on-the-spot check only when there are good reasons to suspect fraud and/or improper use.

3. The recipient of financial aid shall hold all documentary evidence of expenditure associated with the project at the disposal of the Commission for five years after the last payment for a project.

(Amendment No. 38)

Article 11a (new)

1. The Commission can reduce, suspend or reclaim the payment of financial aid granted for a project if it becomes apparent that there has been abuse or if a significant change has been made in the project which conflicts with the nature or implementing conditions of the project and where the Commission's approval has not been sought.

2. If the deadlines have not been observed or if only a part of the allocated financial aid is justified by the progress in implementation of a project, the Commission shall request the beneficiary to submit its observations to the Commission within a specified period. If the beneficiary does not give a satisfactory answer, the Commission may cancel the remaining financial aid and request the repayment of money paid out at an earlier stage.

3. Any undue payment must be repaid to the Commission. Interest can be added to any sums not repaid within the deadline set. The Commission shall establish more detailed provisions for the implementation of this paragraph.

(Amendment No. 39)

Article 12

The Commission shall ensure that the implementation of Community operations is efficiently monitored and evaluated on the terms set out in the Decision, Contract or Agreement.

1. The Commission shall ensure effective monitoring of the implementation of Community operations. This monitoring shall take place on the basis of reports drawn up using the procedures agreed by the Commission and the beneficiary and shall also involve sample checks.

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

2. For each pluriannual action the beneficiary shall submit progress reports to the Commission at the latest six months after the conclusion of each full implementing year. Within six months of completion of the project a final report shall also be forwarded to the Commission. For each project lasting less than two years the beneficiary shall submit a report to the Commission within six months of the project's completion. The Commission shall determine the form and content of these reports.

3. On the basis of the monitoring procedures and reports referred to in (1) and (2) the Commission shall if necessary adjust the scale or the conditions of allocation of the originally approved financial aid and also the timetable for payments.

4. The conclusions of this evaluation and monitoring shall be published in the Official Journal of the European Communities.

(Amendment No. 40)  
Article 12a (new)

The European Environment Agency

The European Environment Agency may assist the Commission with the tasks referred to in the preceding Articles.

(Amendment No. 42)  
Article 14, first indent

- making potential beneficiaries and trade organizations aware of the opportunities afforded by the action;

- making potential beneficiaries, trade organizations and NGOs aware of the opportunities afforded by the action;

(Amendment No. 53)  
Article 14, final paragraph (new)

The list of measures and the amount of financing granted them by the Commission shall be published each year in the Official Journal of the European Communities.

(Amendment No. 43)  
Article 15, first paragraph

The Council shall re-examine this Regulation for the first time on the basis of the experience acquired, taking account of budgetary forecasts, and on a proposal from the Commission to be submitted before 31 December 1992.

The Council shall re-examine this Regulation for the first time on the basis of the experience acquired, and in the light of the opinion of the European Parliament, taking account of budgetary forecasts, and on a proposal from the Commission to be submitted before 31 December 1992.

(Amendment No. 54)  
Article 16

This provision shall also apply to the proposals for regulations ACNAT and NORSPA if they have already been adopted when this Regulation comes into force.



A. Action within the Community

1. Promotion of sustainable development and the quality of life

Action aiming to:

- promote the development of new techniques and methods of measuring and monitoring the quality of the environment;
- promote the development of new clean technologies, i.e. which cause little or no pollution and which may also be more economical in their use of resources;
- promote the development of techniques for recycling and re-using waste, including waste water;
- promote the development of techniques for locating and restoring sites contaminated by waste and/or hazardous substances;
- accelerate the application of emission standards in sectors responsible for substantial point source pollution, in particular in the case of small and medium-sized enterprises;
- promote the development of regional planning and management models and socio-economic activities consistent with the objective of sustainable development, which are likely to ensure the careful and rational use of natural resources, especially in the field of transport, tourism and development of urban areas;
- contribute to a reduction in the dumping into water of bio-accumulable pollutants;
- improve the quality of urban life, in both central and outlying areas.

2. Protection of habitats and nature conservation

Action aiming to:

- maintain or re-establish biotopes providing refuge for endangered species or seriously threatened habitats of particular Community interest;
- contribute to the implementation of measures to maintain or re-establish endangered species under Directive 79/409/EEC;
- contribute to the implementation of measures to maintain or re-establish types of natural habitats of Community interest and the species of animals and plants of Community interest listed in Annex II;
- contribute to the protection of soil threatened or damaged by fire, desertification, coastal erosion or the disappearance of dunes;
- contribute to the protection and promotion of habitats and green spaces in urban areas.

3. Administrative structures and environmental services

Action aiming to:

- promote the pooling of resources and encourage greater cooperation between the Community countries' national administrations, with particular emphasis on the resolution of transfrontier and global environmental problems;
- promote the development and use of services able to help enterprises and administrations find solutions consistent with sustainable development;
- promote the fitting out, modernization and development of monitoring networks with a view to reinforcing environmental legislation;

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4. Education, training and information

Action aiming to:

- promote a better understanding of the problems involved, thereby encouraging behaviour consistent with environmental objectives, in particular with the help of instruments such as environmental auditing and the eco-label;
- promote environmental education in various administrative and professional fields;
- promote environmental education at the various stages of education (primary, secondary and higher), in particular by promoting information, exchange of experience, training and educational research;
- ensure the dissemination of knowledge relating to sound environmental management, in particular knowledge acquired under programmes and projects financed by the financial instrument for the environment (LIFE).

B. Action outside the Community

Action aiming to:

- promote the creation of the necessary administrative structures in the field of the environment;
- provide the technical assistance necessary for establishing environmental policies and action programmes;
- encourage the transfer of appropriate environment-friendly technologies and promote sustainable development;
- provide assistance to non-member countries faced with urgent environmental problems.

# DOCUMENTS

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