COUNCIL REGULATION (EC) No 3062/95

of 20 December 1995

on operations to promote tropical forests

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 189c of the Treaty (3),

Whereas the Commission communication to the Council of 16 October 1989 on 'The conservation of tropical forests: the role of the Community' (4) sets out broad guidelines for Community action in this sphere;

Whereas the resolution of the Council of Ministers for Development Cooperation of 29 May 1990 on 'Tropical forests: development aspects' established a basis for the use of development instruments in tropical forest conservation;

Whereas, in numerous resolutions, the European Parliament has expressed its concern over the destruction of tropical forests and the consequences for forest peoples;

Whereas the Dublin European Council of June 1990 called for a programme of action to be drawn up to counteract the threat to tropical forests;

Whereas the Community and its Member States adopted the Rio Forest Principles, the Agenda 21 action programme and the Convention on Biological Diversity and Climate Change;

Whereas the Community's operations to promote tropical forests form part of its objectives on the conservation of forests, in whatever geographical area or climate zone they may be situated;

Whereas the Community intends to expand its operations to promote the conservation of tropical forests in all appropriate ways, within the context, *inter alia*, of its environment policy and of its new development cooperation policy, laid down in Articles 130u to 130y of the Treaty, and using the relevant instruments of development assistance and trade;

Whereas, by virtue of their special knowledge, the forest peoples play a key role in managing the environment, in particular with regard to the conservation of tropical forests;

Whereas the ecological and socio-economic conditions of tropical forests vary according to regions and countries;

Whereas a Community operation, supplementing action by Member States, will facilitate achievement of the objectives pursued;

Whereas existing financial instruments available to the Community for supporting the conservation and sustainable development of forests could usefully be supplemented;

Whereas a substantial commitment of resources is required to have a significant impact on the protection of tropical forests;

Whereas provision should be made for funding the operations referred to in this Regulation;

Whereas a financial reference amount, within the meaning of point 2 of the declaration of 6 March 1995 by the European Parliament, the Council and the Commission, is included in this Regulation for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;

Whereas a framework should be set up in order to foster these operations and guarantee a consistent policy in this area;

Whereas the Council and the European Parliament will consider, before the end of 1999, the mechanisms for funding, from the year 2000 onwards, operations to promote tropical forests, taking account of the provisions of the ACP-EC Convention and the Regulation concerning cooperation with developing countries in Asia and Latin America;

Whereas rules for implementation, in particular the form of action, recipients of aid and decision-making procedures, should be laid down,

(1) OJ No C 78, 19. 3. 1993, p. 8;
OJ No C 201, 13. 7. 1994, p. 15.
(2) OJ No C 249, 13. 9. 1993.
(3) Opinion of the European Parliament of 29 October 1993 (OJ No C 315, 22. 12. 1993, p. 644), Council common position of 23 January 1995 (OJ No C 160, 26. 6. 1995) and Decision of the European Parliament of 15 June 1995 (OJ No C 166, 3. 7. 1995).
(4) OJ No C 264, 16. 10. 1989, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall support operations to promote the conservation and sustainable management of tropical forests and their associated biological diversity in accordance with the criteria and procedures provided for in this Regulation.

Article 2

For the purposes of this Regulation:

1. 'Tropical forests' means the natural and semi-natural tropical or subtropical forest ecosystems, whether primary or secondary, whether closed or open forests, in both dry and humid areas. The areas concerned are those found within the tropics and subtropics delimited by the 30th northern and southern parallels.

2. 'Conservation' means all operations to preserve and rehabilitate tropical forests, in particular operations designed to protect or restore the biological diversity, including ecological functions, of the forest ecosystem in question and at the same time to secure as far as possible its current and future utility value for mankind and in particular for forest peoples.

3. 'Sustainable forest management' means the management and use forests and wooded lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, without causing any damage to other ecosystems.

4. 'Sustainable development' means the improvement of the standard of living and welfare of the relevant populations within the limits of the capacity of the ecosystems by maintaining natural assets and their biological diversity for the benefit of present and future generations.

5. 'Forest peoples' means the indigenous peoples who inhabit the forest or claim it as their home and any people who live in or near the forest and have traditionally been directly and to a large extent dependent on the forest.

Article 3

1. Pursuant to this Regulation, the Community shall provide financial support or technical expertise for operations which support and encourage the efforts of developing countries and their regional organizations to conserve and sustainably manage their tropical forests, in the context of the sustainable development of those countries and regions.

2. The recipients of aid and partners in cooperation may include not only states, regions and overseas countries and territories but also decentralized authorities, regional organizations, public bodies, local or traditional communities, private industries and operators, including cooperatives and non-governmental organizations and representative associations of forest peoples, which include the conservation of tropical forests among their stated objectives or regular activities.

3. Special consideration shall be given to operations in support of the conservation of forests, as regards both quality and quantity, which are considered to be of importance for local effects such as the protection of hydrographic basins and biotopes, the prevention of soil erosion and the restoration of degraded areas, and for global effects, such as climate change and loss of biological diversity.

Article 4

1. The priority given to specific operations shall be determined according to the needs of each country as reflected in regional and national development and environment policies relating to forests and according to Community cooperation priorities. Particular consideration, however, shall be given to operations that promote the following:

(a) conservation of primary tropical forests and their biodiversity and renewal of tropical forests which have been damaged, supported by analysis of the underlying causes of deforestation and taking into account differences between countries and regions and measures to address them;

(b) sustainable management of forests designated for the production of timber and other products, but excluding commercial logging operations in primary tropical forests, except those which are community-based, on a small scale, sustainable, environmentally sound and implementing sustainable forest management;

(c) the definition and development of certification systems, combined with independent assessment systems, for timber produced from tropical forests according to sustainable forest management principles as part of internationally harmonized certification systems envisaged for all kinds of timber and timber products;

(d) provision of prior information to forest peoples, followed by their support for the identification, planning and implementation of actions;

(e) capacity-building to address the needs for training schemes for local populations, forest managers and researchers, for legislation, for increased political and social support and institutional strengthening and for organizations and associations active in forest conservation;

(f) a strategic and adapted research policy aimed at supplying the knowledge required for the conservation and sustainable management of forests and also for the implementation of research monitoring activities in the framework of projects and programmes;

(g) development of buffer zones to assist the conservation or regeneration of tropical forests, as part of a broader land utilization plan;

(h) development and implementation of forest management plans aimed at conserving tropical forests and promoting sustainable exploitation of timber and other forest products.

2. The Community shall require operations carried out pursuant to this Regulation to be preceded by reports on their ecological, social, economic and cultural impact, with specific qualitative or quantitative objectives. Where appropriate, these actions shall be evaluated with the participation of local people.

The above shall also apply to evaluations of the operations carried out, for which purposes specific indicators shall be given in the reference conditions for the operation which is to be supported. The indicators shall be both quantitative and qualitative.

3. The Community shall, in respect of the various Community policy areas which have a potential direct impact on the conservation of tropical forests, develop and apply the instruments required to prevent the policy pursued or planned from having a negative impact and, where possible, to contribute to the conservation of tropical forests.

4. Operations carried out pursuant to this Regulation shall be coordinated with, and may provide support for, national and international programmes and operations concerned with conservation and sustainable management of tropical forests, such as the Tropical Forest Action Plan and the International Tropical Timber Organization, provided these programmes and actions are in accordance with the principes and objectives laid down in this Regulation.

5. Wherever possible, operations shall be carried out within the framework of regional organizations and international programmes of cooperation and shall form part of a global policy on the conservation and sustainable management of forests.

Article 5

Cofinancing with Member States, or with multilateral, regional or other organizations shall be sought through greater coordination. As far as possible, the Community nature of the aid shall be maintained.

Article 6

Community funding shall be in the form of grants.

Article 7

1. Community funding of the operations referred to in Article 3 shall cover a period of four years (1996 to 1999).

The financial reference amount for the implementation of this programme for the period referred to in the first paragraph shall be ECU 200 million.

The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

2. The budget authority shall determine the appropriations available for each financial year, account being taken of the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

Article 8

1. Financial and technical assistance may cover all foreign currency costs and local costs for carrying out projects and programmes, including, whenever necessary, integrated programmes and sectoral projects.

2. Maintenance and operating expenses for economic cooperation operations, training and research programmes and development projects and programmes may, in particular, be covered. However, except for training and research programmes, such expenses may be covered as a general rule only at the launching stage and in gradually decreasing amounts.

3. Systematic efforts shall be made to seek contributions, particularly in financial form, from

partners (countries, local communities, undertakings, individual recipients) as far as their means permit and according to the nature of each operation.

4. The payment of taxes, duties and charges shall be excluded from Community financing.

5. Study costs and the short and long-term use of experts to assist the recipients and the Commission in devising general policies, identifying and preparing operations and monitoring and evaluating them shall normally be covered by Community funds, either as part of the financing for individual operations or separately.

Article 9

1. Participation in invitations to tender and purchasing and other contracts shall be open on equal terms to all natural or legal persons of the Member States.

2. With regard to financial and technical assistance, the participation referred to in paragraph 1 shall usually be extended to the recipient country, and may also be extended, case-by-case, to other developing countries.

3. In exceptional cases which are duly justified, other countries of origin may be allowed for specific components.

Article 10

Projects and programmes for which Community funding exceeds ECU 2 million in the case of an ACP State and ECU 1 million in the case of an Asian or Latin American country, as well as any substantial modifications which exceed 20% of the amount initially agreed, shall be adopted according to the procedure laid down in Article 11.

Article 11

1. The Commission shall administer tropical forest cooperation activities.

2. The Commission shall be assisted, as appropriate, by the Committee set up pursuant to Article 15 of Council Regulation (EEC) No 443/92 of 25 February 1992 on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America [1] or by the Committee set up pursuant to Article 21 of the Internal Agreement on the financing and administration of Community aid under the Fourth ACP-EEC Convention [2].

3. 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. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

4. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 12

The Commission shall submit to the European Parliament and the Council an annual report with an assessment of the implementation of this Regulation. The report shall set out the results of implementation of the budget as regards commitments and payments and present the projects and programmes financed during the year. The report shall contain, as far as possible, information on the funds committed at national level during the same financial year. It shall also contain specific, detailed information (undertakings, nationality, etc.) on the contracts awarded for the implementation of the projects and programmes.

Regular evaluation reports shall be submitted to the Committee mentioned in Article 11.

In 1997 the Commission shall submit to the European Parliament and the Council an overall assessment of operations to promote tropical forests financed by the Community.

Article 13

This Regulation shall be implemented under an approach consistent with the general principles laid down in Council Regulation (EEC) No 443/92 and in the Fourth ACP-EEC Convention and under common criteria at all

[1] OJ No L 52, 27. 7. 1992, p. 1.
[2] OJ No L 229, 17. 8. 1991, p. 288.

stages of the project cycle from identification to evaluation, according to harmonized methods.

Funding guidelines shall be published for organizations which intend to submit project proposals under this Regulation. The guidelines will specify the criteria for the selection and evaluation of projects.

Article 14

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply until 31 December 1999.

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

Done at Brussels, 20 December 1995.

For the Council

The President

J. L. DICENTA BALLESTER