



COMMISSION OF THE EUROPEAN COMMUNITIES

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98/0101 (SYN)

COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT

pursuant to the first subparagraph of Article 189 c (b) of the EC-Treaty

on

the common position adopted by the Council on 21 December 1998 concerning the proposal for a Council Regulation amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks

1. BACKGROUND

On 18 March 1998, the Commission adopted a proposal for a Council Regulation amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks (COM (1998) 172 final).

The proposal was sent to the Council and Parliament on 11 May 1998.

The Economic and Social Committee delivered its opinion on 9 September 1998.

The Committee of the Regions delivered its opinion on 27 November 1998.

After receiving the opinion of Parliament which was adopted on 19 November 1998, the Commission sent the Council a modified proposal on 4 December 1998 [COM(98) 723 final].

The Council adopted a common position by unanimity on 21 December 1998.

2. SUBJECT OF THE COMMISSION PROPOSAL

Objective of the proposal

In the framework of its proposal relating to the Agenda 2000 exercise, the Commission submitted a proposal in order to amend Council Regulation n°2236/95 on financial rules for granting aid to TENs. The amendments, based on the experience gained so far, aim to improve the functioning of the existing regulation and can be summarised as follows :

- Introduction of a Multi-annual Indicative Programme (MIP) indicating the overall level of TEN-support which the large infrastructure projects can expect to receive in the period 2000-2006, together with the possibility of multi-annual budgetary commitments.
- Use of a modest share of the TEN-budget for participation in risk-capital funding of TEN-infrastructure.
- Increase in the intervention ceiling for Community support from 10% to 20% of a project's total costs in exceptional circumstances for projects with a strong trans-European interest or environmental dimension.
- Inclusion in the financial statement attached to the Commission proposal of a total budget for the period 2000-2006 of just under 5.5 billion EURO.

3. COMMISSION COMMENTS ON THE COMMON POSITION

3.1. General Comment

The Council's common position taken by unanimity embraces some of the new initiatives the Commission has introduced in the proposal. The multi-annual indicative programming, which is very important to long term financial planning for large infrastructure projects, and the possibility for the Commission to use a modest share of the TEN-budget to engage in risk-capital funding of TEN infrastructure, have been endorsed by the Council. These instruments should prove useful in bringing more private capital into TEN-projects.

The Council has rejected the possibility of multi-annual budgetary commitments and the Commission's proposal of increasing the maximum support level for projects to 20% of the total costs. Also the Council has not accepted the introduction of a figure of 5,5 billion EURO as financial reference amount for the period 2000-2006, as proposed by the European Parliament in its first reading report and included in the Commission's modified proposal.

The Council has adopted seven of the European Parliament's amendments in full or in principle. Of the seven amendments adopted by the Council, six have also been accepted by the Commission, namely amendments 3, 6, 10, 16, 17 and 20. The Commission has rejected amendment 23, which the Council accepted. Finally the Council rejected the inclusion of 12 amendments, which the Commission has included fully or partially in its modified proposal.

3.2. European Parliament's amendments on first reading

(1) Amendments accepted by the Commission and incorporated in the common position.

Amendment 3 (recital 4a new)

Amendment 3 requires the application for support to include a detailed breakdown of the sources of finance.

Amendment 6 (recital 8a new)

Amendment 6 reinforces and details the scope for the Community to use part of the TEN-budget for risk-capital participation. This new way of using part of the TEN-funds is an important element in attracting private investment into projects and to motivate the private sector to engage in public-private partnerships. The Council has partially introduced it in recital 3 of the common position.

Amendment 10 (art. 4.1.e in reg. 2236/95)

Amendment 10 specifies that if part of the TEN-budget is used for risk-capital participation there needs to be a substantial private sector investment following the Community's participation.

Amendment 16 (art. 9.1a last indent in reg. 2236/95) new

This amendment states that in the financial plan included in the application

form it must clearly be stated how much of the financing comes from regional, local and private sources.

Amendment 17 (art. 9.2. in reg. 2236/95)

The applicant for Community support will supply the Commission with any other relevant additional information which the Commission requires, such as the hypotheses on which the cost/benefit analysis is based. This amendment makes the existing text more explicit.

Amendment 20 (art. 16 in reg. 2236/95), new

Amendment 20 says that the Commission will once a year submit to the European Parliament a report on the substance and implementation of the current multi-annual programme (MIP). The Council agreed with the Commission to introduce this requirement in the annual report on TENs, as a new chapter.

(2) Amendments accepted fully or in principle by the Commission but not introduced by the Council in the Common position

Amendment 1 (recital 2a)

Amendment 1 stresses the importance of granting increased aid to applicant countries as well as the need for co-ordination with the PHARE and ISPA instruments. The co-ordination issue is already covered in the original recitals.

Amendment 2 (recital 3)

The addition of "or to links with third countries" highlights the importance of granting a higher level of support to the projects which connect the infrastructure in the current European Union to the infrastructure networks in the applicant counties. The Council rejected the proposal of the Commission on the increase of the level of support.

Amendment 4 (recital 4b new)

This amendment aims at taking into consideration the effects at Regional, National and European level of a project eligible for Community support.

Amendment 7 (recital 10)

Amendment 7 supplements the original Commission proposal to raise the profile of European Community subsidies. The regulation should specify how the beneficiary should publicise the Community contribution. The Council rejected the proposal of the Commission on publicity.

Amendment 8 (art. 4.1.a in reg. 2236/95)

This amendment specifies that only in exceptional cases and based on a proposal by the Commission, and where appropriate with the consent of the member states, Community participation for studies may exceed the normal limit of 50%. The Council has rejected the proposal of the Commission to have a power of initiative for limited studies.

Amendment 9 (art. 4.1.b in reg. 2236/95)

As concerns the duration of subsidies on loan interest, it shall as a general rule not exceed seven years. The Council prefers to maintain the existing 5-year-limit.

Amendment 12 (art. 5.3 in reg. 2236/95)

This amendment specifies that, especially for projects linking the Community with third-countries, Community aid may reach 20% of the total investment cost. (See also amendment 2). The Council rejected the proposal of the Commission on the increase of the level of support.

Amendment 14 (art. 9.1a third indent in reg. 2236/95) new

Amendment 14 states that estimates of external costs and of induced traffic volumes shall be submitted, where appropriate, to the Commission, together with other economic information such as cost-benefit analyses and financial profitability analyses. The Council finds this requirement too difficult to meet in practice.

Amendment 15 (art. 9.1a fifth indent in reg. 2236/95) new

This amendment states that the information given in the application forms must also contain a description of the project's consistency with regional development plan and foreseeable socio-economic effects. The Commission accepts the idea of additional information to be provided by project promoters, but it is not the responsibility of the Commission to control projects consistency with regional and national planning. For the Council, national level should remain the reference level for TENs.

Amendment 18 (art. 15.4. in reg. 2236/95)

Amendment 18 states that the Commission and the Member States will evaluate the effects of the programme or projects including the environmental impact. This evaluation should also include a discussion on the possible side effects, which have appeared during and after the realisation of the project. The Council has not included this amendment because it thinks it imposes too many burdens on the applicant.

Amendment 19 (art. 16.2. in reg. 2236/95)

This amendment requires there to be on all buildings constructed with support under this regulation and accessible to the public, a permanent commemorative plaque with the European emblem and a reference to co-financing by the Community. The Council rejected the proposal of the Commission on the publicity.

Amendment 22 (art. 18 in reg. 2236/95), new

This amendment includes a reference amount of 5500 million EUROS for the implementation of this regulation in the period 2000-2006, which is consistent with the financial statement attached to the original Commission proposal. The Commission supports the Parliament's proposal to include a

reference amount of 5500 million EURO in the regulation. The Council introduced such an article but with a symbolic reference amount of 1 EURO and a declaration to the minutes stating that the financial figure will be included before the final adoption of the regulation.

(3) Amendment rejected by the Commission but accepted in principle by the Council and included in the common position.

Amendment 23 (art. 19 in reg. 2236/95), new

In this amendment it is proposed that the Council will examine whether or not this regulation may be extended beyond the period specified in article 18 (2000-2006). The Commission has rejected this amendment because such a provision is unnecessary. The regulation will automatically apply after 2006 if it has not been revised. The Council introduced a revision clause in a different wording in its common position.

(4) Other differences between Commission's amended proposal and common position, not taken into account in the Council's common position.

The Council has rejected some of the elements put forward in the Commission's modified proposal, which were supported by the EP.

* Article 5.3 specifies that for projects related to more than one member state, or with links to third countries or contributing strongly to the broader trans-European interest, including those having an important environmental dimension, the support level for projects may reach 20% of the total costs. The Council prefers to keep the existing text of Regulation 2236/95 allowing a maximum of support of 10%.

* Article 11.3a new, introduces the possibility for the Commission in limited cases to use budgetary multi-annual commitments. The Council prefers to keep the existing procedure of annual commitments.

3.3 New provisions introduced by Council in the Common position

Recital 3 and 4, Article 4.1 (e) and Annex to Article 4.1(e)

The Council introduces several new provisions concerning the possibility for the Commission to use part of the TEN-budget to engage in risk-capital funding. In particular, the Annex to Article 4.1(e) clarifies in detail the functioning of the new instrument. The Commission can accept the Council's new provisions, but sees no need for a specific limit on the use of risk-capital. If there is such a limit, it is important for the credibility of this new instrument, as well as its ability to attract private capital into risk-capital funding of TENs, that a minimum of 50 million EUROS can be used for this purpose. In the Council proposal a maximum of 1% of the available

budget is proposed, which depends on the overall amount for TENs in the coming period, and is therefore still uncertain.

Recital 5 and Article 5a, 10, 14

The Council has also introduced several new provisions concerning multi-annual programming (MIP). The Commission can accept the Council's additions.

Recital 11 and Article 18

The Commission welcomes the fact that the Council has followed the Commission's modified proposal to introduce a recital and an Article mentioning the reference amount for the period 2000-2006. However the Commission still retains its position that the necessary amount must be 5500 million EUROS as stated in the modified proposal, after the European Parliament had introduced an amount in Article 18 in its report following the first reading. However the Commission acknowledges the statement in the Council's minutes saying that a final reference amount for the period 2000-2006 will be inserted in Article 18 of the common position after a final agreement on the new Financial Perspectives in the framework of Agenda 2000 has been reached.

Recital 12 and Article 19

These provisions introduce a clause saying that the Commission shall submit a comprehensive evaluation report on which basis the Council shall examine whether or not the TEN-support programme shall continue and under which conditions. The Commission can not support such a provision because it is unnecessary. The regulation will automatically apply after 2006 if it has not been revised.

CONCLUSION

The Commission maintains its modified proposal. In particular this refers to

a) the increase in the maximum support level from 10% to 20% for projects with a strong trans-European interest, networking advantage or environmental dimension. A higher support level in exceptional circumstances will significantly increase the Commission's possibility to help projects getting off the ground from the study phase to implementation. This is especially the case for trans-European projects, where the benefits of a project often fall outside the member states directly concerned. There may be scope to limit this possibility more rigorously, for example by limiting it to projects which are essentially European rather than national, such as any potential European satellite navigation system or traffic management projects such as ERTMS....

b) the necessity of multi-annual budgetary commitments to supplement the multi-annual programming. The possibility of multi-annual budgetary commitments will provide legal certainty to promoters on the total size of Community support, and allow the Commission to play a more active role in putting together financial packages for PPP projects. Multi-annual budgetary commitments are possible under the Cohesion and Structural

funds regulations, and would also be useful for the TEN-regulation. Therefore it would be useful to review this issue in the light of the progress made on the Structural and Cohesion fund package.

c) the reference amount of 5500 million EUROS for the period 2000-2006, which the Commission has included in its modified proposal following the inclusion in Article 18 as proposed by the European Parliament in the report on its first reading.

d) the Commission sees no necessity to include a limit on the amount available to risk-capital participation, but if restrictions are to be imposed an amount of at least 50 million EUROS should be available for risk-capital participation. In the opinion of the Commission it may be appropriate to introduce an upward revise clause.

However the Commission can accept the Council's common position concerning the additions to Article 5a (multi-annual programming) and the additions to Article 4.1(e) including Annex (risk-capital participation) which the Council has introduced.