

Proposal for a regulation of the European Parliament and of the Council on the granting of Community financial assistance to improve the environmental performance of the freight transport system

(2002/C 126 E/12)

COM(2002) 54 final — 2002/0038(COD)

(Submitted by the Commission on 4 February 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71(1) and 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The European Council held at Gothenburg on 15 and 16 June 2001 has declared that shifting the balance between the modes is at the heart of the sustainable development strategy.
- (2) If no decisive action is taken, total road freight transport in Europe is set to grow by about 50 % by 2010. The effect would be a growth of international road freight of about 12 billion tonne-kilometres per year.
- (3) In its White Paper — European Transport Policy for 2010: time to decide⁽¹⁾, the Commission proposed to take measures which should make the market shares of the modes of transport return, by 2010, to their 1998 levels. This will prepare the ground for a shift of balance from 2010 onwards.
- (4) It is necessary to establish a programme, hereinafter referred to as the 'Marco Polo programme', to improve the environmental performance of the freight transport system within the Community. The programme should contribute to shifting the expected aggregate increase of international road freight traffic to short sea shipping, rail and inland waterways.
- (5) The Marco Polo programme features three types of action: (1) modal shift actions, which should focus on shifting as much cargo as possible under current market conditions from road to short sea shipping, rail and inland waterways; (2) catalyst actions, which should change the way non-road freight transport is conducted in the Community; and (3) common learning actions, which should enhance knowledge in the freight logistics sector

and foster advanced methods and procedures of co-operation in the freight market.

- (6) Actions must involve the territory of at least two countries. If these two countries are Member States or other countries participating in the programme according to the conditions laid down in the Regulation, the programme will re-imburse the costs accrued to the participating undertakings within the limits laid down in the Regulation.
- (7) Applicants should be able to submit projects which best match current market needs. Suitable projects should therefore not be discouraged by any over-rigid definition of allowable actions.
- (8) The results of the catalyst and common learning actions of the programme should be adequately disseminated, in order to ascertain replication, publicity and transparency.
- (9) During the project selection procedure and during the life time of the project, it is necessary to ensure that the project chosen makes a real contribution to the common transport policy and does not cause unacceptable distortions of competition. The Commission shall therefore evaluate the implementation of this Regulation. It shall present, not later than 31 December 2006, an assessment report on the results of the Marco Polo programme, accompanied if necessary by a proposal for the amendment of this Regulation.
- (10) Since the objective of the proposed programme, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scope of the programme, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (11) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾, measures for the implementation of this Regulation should be adopted by use of the advisory procedure provided for in Article 3 of that Decision.

⁽¹⁾ COM(2001) 370 final.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

(12) A financial reference amount, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure is inserted in this Regulation for the entire duration of the programme, without the powers of the budgetary authority as defined by the Treaty being affected thereby.

(13) In order to administer funding under this Regulation in the most expedient and speedy way, this Regulation should enter into force as fast as possible after its adoption,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT-MATTER, DEFINITIONS AND SCOPE

Article 1

Subject-matter

1. This Regulation establishes a single financing instrument for actions reducing road congestion and improving the environmental performance of the transport system, hereinafter referred to as the 'Marco Polo programme', for the period from 1 January 2003 to 31 December 2010.

2. The Marco Polo programme shall contribute to maintaining the modal repartition in freight transport at its 1998 levels. To achieve this objective, it shall support actions in the freight transport, logistics and other relevant markets. These actions should contribute to reducing environmental impacts from freight transport. By the end of the programme, a traffic shift of the expected yearly aggregate increase of international road freight traffic, measured in tonne-kilometres, to short sea shipping, rail and inland waterways should be achieved. The implementation of the programme shall aim at maximising the environmental benefits achieved, given the resources available

Article 2

Definitions

For the purposes of this Regulation:

(a) 'action' means any project related to the logistics market, executed by undertakings, which contributes to reducing congestion in the road freight transport system and/or to a better environmental performance of the transport system;

(b) 'modal shift action' means any action directly and immediately shifting freight from road to short sea shipping, rail or inland waterways, without being catalyst actions;

(c) 'catalyst action' means any innovative action aimed at overcoming Community-relevant structural barriers in the market for freight transport, which impede the efficient functioning of the markets, the competitiveness of short sea shipping, rail, or inland waterways, and/or the efficiency of transport chains making use of these modes; for the purpose of this definition, 'structural market barrier' means any non-regulatory, factual and not only temporary impediment to the proper functioning of the freight transport chain;

(d) 'common learning action' means any action aimed at improving co-operation for optimising working methods and procedures in the freight transport chain, taking into account the requirements of logistics;

(e) 'accompanying measure' means any measure which seeks to prepare for or to support current or future actions, inter alia dissemination activities and project monitoring and evaluation, and the collection and analysis of statistical data. Measures devoted to the commercialisation of products, processes or services, marketing activities and sales promotion are not 'accompanying measures';

(f) 'consortium' means any formal or informal arrangement by which at least two undertakings execute together and share the risk concerning, an action;

(g) 'undertaking' means any entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed;

(h) 'ancillary' means necessary, but sub-ordinate, to achieve the goals of 'modal shift actions' or 'catalyst actions'.

Article 3

Scope

1. This Regulation is applicable to modal shift actions, catalyst actions and common learning actions:

(a) involving the territory of at least two Member States;

(b) involving the territory of at least one Member State and the territory of a third country.

2. Where an action involves the territory of a third country, costs arising in the territory of such a country shall not be covered by the programme, except in the circumstances mentioned in paragraphs 3 and 4 of this article.

3. The present programme is open to participation of eastern and central European countries, which are candidates to the accession. The participation will be governed by the conditions laid down in the Association Agreements with these countries, and on the basis of the rules foreseen in the decision of the Association Council for each country concerned.

4. The present programme is also open to participation of the countries being members of the EFTA and the EEA, and to Cyprus, Malta and Turkey on the basis of supplementary credits and in conformity with the procedures to be agreed with these countries.

CHAPTER II

ELIGIBLE APPLICANTS AND ACTIONS

Article 4

Eligible applicants

1. Projects shall be submitted by a consortium of two or more undertakings, established in at least two different Member States or participant countries according to Article 3(3) and 3(4) of the Regulation.

2. Undertakings established outside the Community and outside a participant country according to Article 3(3) and 3(4) of the Regulation may be associated to the project. They may not be recipient of Community funding under this Regulation.

Article 5

Modal shift actions

1. Modal shift actions shall be eligible for funding under the present Regulation under the following conditions:

- (a) The modal shift action is forecast to lead to an actual, substantial and sustainable modal shift of freight transport from road to short sea, rail or inland waterways;
- (b) According to its realistic business plan, the modal shift action is viable on its own after a maximum of 36 months of Community funding;
- (c) The modal shift action does not lead to unacceptable distortions of competition in the relevant markets;
- (d) When the action requires reliance on services provided by third parties not part of the consortium, the applicant it submits proof of tendering or market inquiry for such services, evidenced by at least two competitive bids.

2. Community financial assistance for modal shift actions shall be limited to a maximum of 30 % of all expenditure necessary to achieve the objectives of, and caused by, the action. Such expenditure shall be eligible for Community financial assistance, as far as it relates directly to the implementation of the action. Ancillary infrastructure expenditure shall also be re-imburseable to a maximum of 30 %. Expenditure

incurred as of the date of the submission of an application in the selection procedure is reimbursable. Contribution towards costs of assets is contingent on the obligation to use such assets, for the duration of the assistance, for the action only, as defined by the subsidy agreement.

3. The Community financial assistance under paragraph 2 shall take the form of an external cost savings award. This award means Community financial assistance, calculated by the Commission on the basis of savings of external costs resulting from the use of short sea, inland waterways and rail transport instead of road freight transport. The award shall take the form of a lump sum payment based on the tonne-kilometres shifted from road and shall not surpass 30 % of the eligible costs for an action.

The Commission may re-examine, from time to time as necessary, the developments concerning the external cost items, on which the award according to this Article is based.

4. The Community financial assistance for modal shift actions shall be granted on the basis of subvention contracts. As a rule, the maximum duration of these contracts shall not be longer than 38 months.

5. The minimum subsidy threshold per modal shift action shall be 1 million EUR.

Article 6

Catalyst actions

1. Catalyst actions shall be eligible for funding under the present Regulation under the following conditions:

- (a) The catalyst action achieves its objectives within a period of a maximum of 48 months, and stays viable after that period, as ascertained by its realistic business plan;
- (b) The catalyst action is innovative on a European level, in terms of logistics, technology, methods, equipment, products or services rendered. In this context, catalyst actions enforcing the concept of 'motorways of the seas' deserve special attention;
- (c) The catalyst action is forecast to lead to an actual and sustainable modal shift from road to short sea shipping, inland waterways, or rail;
- (d) The catalyst action proposes a realistic plan with concrete milestones towards its objectives and identifies the need for Commission steering assistance;
- (e) The catalyst action does not lead to unacceptable distortions of competition in the relevant markets;

- (f) When the action requires reliance on services provided by third parties not part of the consortium, the applicant submits proof of tendering or market inquiry for such services, evidenced by at least two competitive bids;
- (g) Catalyst actions in transport markets take place on the trans-European networks, within the meaning of the Decision of Council and Parliament No 1692/96/EC.

2. The results and methods of catalyst actions shall be disseminated. Articles 18 and 19 of Council Decision 1999/65/EC ⁽¹⁾ shall apply *mutatis mutandis*.

3. Community financial assistance for catalyst actions shall be limited to a maximum of 35 % of all expenditure necessary to achieve the objectives of, and caused by, the action. Such expenditure shall be eligible for Community financial assistance, as far as it relates directly to the implementation of the action. Expenditure for ancillary measures related to infrastructure works, and preparatory measures concerning the action shall also be re-imbursable to a maximum of 35 %. Expenditure incurred as of the date of the submission of an application in the selection procedure is reimbursable. Contribution towards costs of assets is contingent on the obligation to use such assets, for the duration of the assistance, for the action only, as defined by the subsidy agreement.

4. The Community financial assistance for catalyst actions shall be granted on the basis of subvention contracts, with appropriate provisions for steering and monitoring. As a rule, the maximum duration of these contracts shall not be longer than 50 months.

5. The Commission shall make known, through publication in the *Official Journal of the European Communities*, on or before the first publication of the invitation to submit catalyst actions under this Regulation, the political priority targets for such actions in the selection procedure. It shall put specific emphasis on actions enforcing the concept of 'motorways of the seas'. The Commission may review the political priority targets from time to time.

6. The minimum subsidy threshold per catalyst action shall be 3 million EUR.

Article 7

Common learning actions

1. Common learning actions shall be eligible for funding under the present Regulation under the following conditions:

- (a) The action leads to the improvement of commercial services in the market;

⁽¹⁾ OJ L 26, 1.2.1999, p. 46.

- (b) The action is innovative on a European level;

- (c) The action does not lead to unacceptable distortions of competition in the relevant markets;

- (d) The common learning action proposes a realistic plan with concrete milestones towards its objectives and identifies the need for Commission steering assistance;

2. The results and methods of common learning actions shall be disseminated. Articles 18 and 19 of Decision 1999/65/EC shall apply *mutatis mutandis*.

3. Community financial assistance for common learning actions shall be limited to a maximum of 50 % of all expenditure necessary to achieve the objectives, and caused by, the action. Such expenditure shall be eligible for Community financial assistance, as far as it relates directly to the implementation of the action. Expenditure incurred as of the date of the submission of an application in the selection procedure is reimbursable. Contribution towards the costs of assets is contingent on the obligation to use such assets, for the duration of the assistance, for the action only, as defined by the subsidy agreement.

4. The Community financial assistance for common learning actions shall be granted on the basis of subvention contracts, with appropriate provisions for steering and monitoring. As a rule, the maximum duration period of the contract shall not be longer than 26 months.

5. The Commission shall make known, through publication in the *Official Journal of the European Communities*, on or before the first publication of the invitation to submit common learning actions under this Regulation, the political priority targets for such actions in the selection procedure. The Commission may review the political priority targets from time to time.

6. The minimum subsidy threshold per common learning action shall be 500 000 EUR.

Article 8

Detailed rules

The Commission shall issue detailed rules for the procedure for submission, selection, execution, dissemination and individual reporting and verification requirements concerning actions under this Regulation in accordance with the procedure referred to in Article 11(2).

CHAPTER III

SUBMISSION AND SELECTION OF PROJECTS*Article 9***Submission of projects**

Projects for actions shall be submitted to the Commission according to the detailed rules issued under Article 8. The submission shall contain all the elements necessary to enable the Commission to make its selection in accordance with Article 10.

*Article 10***Selection of projects — Granting of financial assistance**

Submitted projects shall be evaluated by the Commission. The Commission shall decide whether to grant financial assistance under this Regulation taking into account, for the selection of the project, the objective referred to in Article 1, and the conditions referred to in Articles 5, 6, and 7, as appropriate. The selection will take into account the relative environmental merits of the proposed actions and their contribution to reducing road congestion. This decision shall be taken in accordance with the procedure referred to in Article 11(2) of this Regulation.

The Commission shall inform the beneficiaries and the Member States of its decision.

CHAPTER IV

FINAL PROVISIONS*Article 11***Committee**

1. The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

*Article 12***Budget**

The financial framework for the implementation of the Marco Polo programme, for the period 1 January 2003 to 31 December 2007, shall be EUR 115 million.

Annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

*Article 13***Set aside for accompanying measures and programme evaluation**

Up to 5 % of the budget provided for in this Regulation shall be set aside for accompanying measures and independent evaluation of the implementation of the Regulation.

*Article 14***Evaluation**

By 31 December 2006 at the latest, the Commission shall present to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions an assessment report on the results of the Marco Polo programme, having regard to its objective, and accompanied if necessary by a proposal for the amendment of this Regulation.

*Article 15***Entry into force**

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

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