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NOTE

from: General Secretariat
to: Delegations

Subject: Current legislative proposals
 - Proposal for a Regulation of the European Parliament and of the Council on the
 establishment of a Programme for the Environment and Climate Action (LIFE)
 = Information from the Presidency

Delegations will find in Annex an information note from the Presidency on the above-mentioned subject, which will be dealt with under "Any other business" at the Council (Environment) meeting on 11 June 2012.

Proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Environment and Climate Action (LIFE)

- Information note from the Presidency -

1. At the Environment Council meeting on 19 December 2011, the European Commission presented a proposal for a Regulation on the establishment of a Programme for the Environment and Climate Action (LIFE)
2. The Danish Presidency worked intensively on the proposal and the Working Party on the Environment (WPE) has during 9 meetings made considerable progress on the dossier. The Presidency started discussions on the key issues at the Working Party level with a view to prepare the orientation debate which Environment Ministers had on 9 March 2012 on the issue of distribution of projects and on the issue of co-financing rates and eligible costs. Subsequently, and on the basis of the outcome of the orientation debate, the Presidency prepared a first draft compromise text which was further elaborated upon in the WPE during a series of meetings.

Based on Member States interventions and subsequent written comments the Presidency presented a third draft compromise text for the WPE meeting on 14 May 2012. Many delegations were of the opinion that a partial general approach should not be pursued by the Council at its meeting on June 11 as originally planned by the Presidency.

The European Parliament's Environment Committee held its first exchange of views on 7 May 2012 and it is expected to vote during its session on 17 - 19 September. The position of the European Parliament at first reading is not expected before the end of 2012.

3. The **main outstanding** issue under discussion is Geographical Balance and National allocations:

3.1 In its proposal, the Commission proposed the introduction of Integrated Projects which operate at a large territorial scale and which aim to implement environmental and climate strategies or action plans. In awarding these projects, the Commission also committed itself to ensure geographical balance in line with the principles of solidarity and effort sharing based on application of criteria to be adopted via delegated acts.

Furthermore, the Commission also proposed to remove the system of national allocations from the LIFE programme as in its view, these work against the interests of Member States and have unwanted results as regards quality of projects.

Following the request by the majority of delegations, the Presidency introduced, in their compromise text, indicative national allocations and application criteria for geographical balance. In doing so, the Presidency proposed two possible alternatives. Both alternatives include criteria in the Regulation which the Commission should use to apply geographical balance and to determine the indicative national allocations for Member States. However, under the first alternative, geographical balance and indicative national allocations would apply to Integrated Projects only while under the second one, these criteria would apply to all projects (Integrated Projects and 'traditional' projects).

A majority of Member States would like to have national allocations reinserted in the proposal, but the Commission has objected to this re-insertion of indicative national allocations (and relevant criteria) for all projects and to the introduction of application criteria for geographical balance in the regulation.

4. **Other** issues:

4.1 Integrated projects and complementarity: Some Member States have indicated uncertainty on the practical setting up of integrated projects as well as the possibilities for these projects to generate supporting funds from other relevant EU funding sources. As regards the funding issue Member States seem to agree that this issue should be primarily dealt with outside the LIFE regulation, inter alia in coherence with other relevant EU funding, both at national level within the MS and at the level of the Commission.

4.2 Eligibility of VAT and permanent staff costs: In an attempt to simplify the process, the Commission also proposed to make VAT and permanent staff costs ineligible under LIFE programme.

Delegations disagreed with the Commission's proposed approach and on this basis, the Presidency deleted the provision excluding VAT from the eligible costs and added, in the recitals, text which clarifies that both VAT and permanent staff costs should be eligible under LIFE as established by the Financial Regulation ¹. The Commission maintains its reservation on this Presidency proposal.

4.3 Co-financing rates: As a corresponding measure to the proposal to exclude VAT and permanent staff costs from the eligible costs under LIFE programme, the Commission proposed higher co-financing rates. Many delegations supported higher co-financing rates in addition to keeping VAT and permanent staff costs eligible under the LIFE programme, but emphasised mainly the need for a higher co-financing rate for priority habitats and species. In their proposal to re-introduce VAT and permanent staff costs as eligible costs, the Presidency proposed lower co-financing rates and as an exception a higher co-financing rate of 75% for priority habitats and species.

¹ Council Regulation (EC, Euratom) No 1605/2002 of 25/06/2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended.

- 4.4 Overseas Countries and Territories (OCTs): A few delegations requested certainties that OCTs are eligible for support from the LIFE programme while a few others and the Commission were hesitant. During the last WPE, the Presidency suggested, as a compromise that was acceptable to the majority, a recital to clarify the status of OCTs following advice from the Council Legal Service.
- 4.5 Multiannual work programmes: In its proposal, the Commission proposed the establishment of multiannual work programmes to be adopted via implementing acts. Following the requests by delegations, the Presidency proposed, amongst others, an extension of the duration of these work programmes to at least three years (compared to two years as proposed by the Commission) and at the last WPE a stronger role for Member States in formulating and adopting these work programmes.
- 4.6 Inter-institutional matters, including delegated acts: All delegations and the Commission maintain a general scrutiny reservation on inter-institutional matters.
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