Regulation (EC) no 1682/2004 of the european parliament and of the council of 15 September 2004 amending Regulation (EC) No 1655/2000 concerning the Financial Instrument for the Environment (LIFE)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas

(1) The financial instrument for the environment, LIFE, as established by Regulation (EC) No 1655/2000 of the European Parliament and of the Council[(3)], is being implemented in phases the third of which will end on 31 December 2004.

(2) Given the positive contribution of LIFE to the attainment of the objectives of Community policy on the environment and with a view to further contributing to the implementation, updating and development of Community environment policy and of environment legislation, in particular as regards the integration of the environment into other policies, and to sustainable development, the duration of the third phase should be extended until 31 December 2006.

(3) A Sixth Community Environment Action Programme was adopted on 22 July 2002 by Decision No 1600/2002/EC of the European Parliament and of the Council[(4)]. It is necessary to adapt Regulation (EC) No 1655/2000 to the objectives and priorities laid down in that Programme.

(4) There is a need to bridge the gap between the expiry of the third phase of LIFE and the new, post-2006 financial perspectives, for a period of two years ending on 31 December 2006.

(5) LIFE should be reinforced as a specific financial instrument, complementary to the Community research programmes and to the Structural Funds and rural development programmes. Efforts should be made to encourage more efficient use of these Community financial instruments for the funding of elements of environment and nature

projects. Appropriate measures should also be put in place to prevent the possibility of double funding.

(6) The Communication entitled 'Developing an action plan for environmental technology' was adopted by the Commission on 25 March 2003. This Communication was followed by an environmental technology action plan adopted on 28 January 2004, which should serve as a reference for the guidelines for LIFE Environment.

(7) The Court of Auditors' special report No 11/2003[(5)] examined the conception, management and implementation of LIFE. It is appropriate to have regard to the Court's recommendations.

(8) On 1 May 2004 10 new Member States joined the European Union and this should be reflected accordingly in the budget allocation to LIFE.

(9) The exploitation and dissemination of results should be improved and the amount allocated in the budget for that purpose should be increased.

(10) Projects still ongoing at the end of 2006 should continue to be monitored and audited.

(11) In its Judgment of 21 January 2003[(6)] the Court of Justice of the European Communities annulled Article 11(2) of Regulation (EC) No 1655/2000. The Court declared that 'the effects of Article 11(2) of Regulation (EC) No 1655/2000 are to be fully maintained until the Parliament and the Council adopt new provisions concerning the committee procedure to which the measures for the implementation of that Regulation are subject'.

(12) In accordance with Article 233 of the Treaty, the institutions whose act has been declared void are required to take the necessary measures to comply with the judgment of the Court of Justice.

(13) The measures that the Commission is empowered to adopt under the implementing powers conferred on it by Regulation (EC) No 1655/2000 are management measures relating to the implementation of a programme with substantial budgetary implications within the meaning of Article 2(a) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(7)]. Those measures should therefore be adopted in accordance with the management procedure provided for in Article 4 of that Decision, without prejudice to the committee procedure to be chosen for any further development of LIFE or a financial instrument exclusively in the environmental field.

(14) This Regulation lays down, for the entire duration of the programme, a financial framework constituting the prime reference, 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[(8)], for the budgetary authority during the annual budgetary procedure.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1655/2000 is amended as follows:

1. Article 3 shall be amended as follows:

(a) in paragraph 3:

(i) point (a) shall be replaced by the following:

(a) 50 % for nature conservation projects, 100 % of eligible costs excluding overheads and durable goods for accompanying measures pursuant to paragraph 2(b)(i) and (ii) and 100 % of costs for accompanying measures pursuant to paragraph 2(b)(iii);

(ii) the following point shall be added:

(c) the salary costs of a civil servant shall be considered eligible only to the extent that they relate to the cost of activities that the relevant public authority would not carry out if the project concerned were not undertaken.;

(b) the following paragraph shall be inserted:

3a. The grant of assistance in respect of a project that involves the acquisition of land shall be subject to the condition that the land purchased is reserved in the long term for uses of land consistent with the objective of LIFE-nature set out in paragraph 1. Member States shall, by way of transfer or otherwise, ensure the long-term reservation of such land for nature conservation purposes.;

(c) in paragraph 7 the second subparagraph shall be replaced by the following:

In accordance with Article 116 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[9], a decision shall be adopted by the Commission on the projects which have been accepted and grant agreements shall be concluded with the beneficiaries laying down the amount of financial assistance, the financial procedures and controls, and the specific technical conditions of the project approved.

(d) paragraph 8 shall be replaced by the following:

8. At the Commission's initiative:

a accompanying measures to be financed pursuant to paragraph 2(b) (i) and (ii) shall, after consultation of the committee mentioned in Article 21 of Directive 92/43/EEC, be the subject of calls for proposal. Member States may submit proposals on accompanying measures to the Commission,

b accompanying measures to be financed pursuant to paragraph 2(b) (iii) shall be the subject of calls for tender. All calls for tender shall be published in the *Official Journal of the European Union* where the specific criteria to be met shall be set out.;

2. Article 4 shall be amended as follows:

(a) in paragraph 3

(i) the fourth subparagraph shall be replaced by the following:

The rate of Community financial support shall be 100 % of eligible costs excluding overheads and durable goods for accompanying measures pursuant to paragraph 2(c)(i) and 100 % of costs for accompanying measures pursuant to paragraph2(c)(ii).;

(ii) the following subparagraph shall be added:

The salary costs of a civil servant shall be considered eligible only to the extent that they relate to the cost of activities that the relevant public authority would not carry out if the project concerned were not undertaken.;

(b) paragraph 4 shall be replaced by the following:

4. As far as demonstration projects referred to in paragraph 2(a) are concerned, guidelines shall be established by the Commission, in accordance with the procedure referred to in Article 11(2), and published in the *Official Journal of the European Union.*

Those guidelines shall indicate the priority areas and objectives for demonstration projects with an explicit reference to the priorities set out in Decision No 1600/2002/EC[10].

The guidelines shall ensure that LIFE-Environment is complementary to the Community research programmes and to the Structural Funds and rural development programmes.

The Commission shall also establish guidelines on preparatory projects referred to in paragraph 2(b). It shall publish such guidelines in the *Official Journal of the European Union* and inform the committee referred to in Article 11(1) of their publication.

(c) in paragraph 6, points (d) and (e) shall be replaced by the following:

(d) being capable of promoting the wide application and dissemination of practices, technologies and/or products conducive to environmental protection;

(e) aiming at developing and transferring innovative technologies or methods which can be used in identical or similar situations, particularly in new Member States;

(d) paragraph 8 shall be replaced by the following:

8. At the Commission's initiative:

a projects to be financed pursuant to paragraph 2(b) and accompanying measures to be financed pursuant to paragraph 2(c)(i) shall, after consultation of the committee mentioned in Article 11(1), be the subject of calls for proposal. Member States may submit proposals for projects to be financed pursuant to paragraph 2(b) and accompanying measures to be financed pursuant to paragraph 2(c)(i) to the Commission;

b accompanying measures to be financed pursuant to paragraph 2(c)(ii) shall be the subject of calls for tender. All calls for tender shall