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# WWF position on the draft Cohesion policy regulations for 2007-2013

November 2004

## 1. Summary

This paper presents the position of WWF in Europe<sup>1</sup> towards the new regulations for Cohesion Policy: It highlights the key principles and environmental issues that we feel must be included and strengthened in the regulations in order to contribute to achieving the EU's goals of environmental improvement and long-term sustainable development. In addition to this position paper, WWF and other organisations have developed detailed amendments and comments on the Commission's regulatory proposals for the Cohesion policy<sup>2</sup>.

In WWF's opinion, it is crucial that the principles of **environmental integration**, **conditionality**, **partnership** and **effective control** become baselines for delivering a sustainable Cohesion Policy.

The main issues that WWF wants to see addressed by a sustainable Cohesion Policy are: **funding for biodiversity**, **maintaining freshwater ecosystems** and **reducing CO<sub>2</sub> emissions**. These principles and issues must be clearly addressed not only in the relevant regulations themselves, but also in the European Strategic Guidance document as well as in National Strategies. Member States must be given clear guidance that environment and sustainable development are important priorities to be included in the national strategic development frameworks and the Operational Programmes for each specific fund and region.

## 2. WWF activities

The network of WWF and partner organisations across Europe are working at EU, national, and sub-national levels to make sustainable development and environmental improvement a central objective of Cohesion Policy. We are working not only to monitor and influence policy development at EU level, but also, and more importantly, to oversee its translation into practical implementation measures at the national and regional levels. We are guided in this work by experience from past use of EU funding instruments, which is particularly relevant for the new and future EU member states that will be implementing the funds with less experience and preparation.

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<sup>1</sup> WWF, the global conservation organisation, with offices in Brussels and across Europe, including Germany, France, Austria, United Kingdom, Italy, Spain, Poland, Latvia; Netherlands, Sweden, Finland, Denmark, Greece, Hungary, Romania, Bulgaria, Switzerland and Norway.

<sup>2</sup> Coalition for sustainable EU funds: <http://www.coalition-on-eufunds.org>



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### 3. The Commission's regulatory proposals

This position paper addresses the four regulatory proposals on Cohesion Policy published by the European Commission on July 14, 2004, including a general regulation laying down provisions for the Structural Funds and Cohesion Fund as well as the implementing regulations for the European Regional Development Fund (ERDF), the European Social Fund (ESF), and the Cohesion Fund.<sup>3</sup>

The funds will be the major instruments for addressing social and economic cohesion in an EU of 25, or even 27, member states, characterised by significant social and economic disparities (see map in Annex A). According to the Financial Perspective proposed by the Commission<sup>4</sup>, €336.1 billion should be made available for the EU's Cohesion Policy between 2007-13.

Spending will be focussed on three objectives, and the geographic concentration will be on those areas with the lowest Gross Domestic Product (GDP):

- The **Convergence** objective (78% allocation of funds) is focussed on accelerating economic development, building infrastructure, improving accessibility, environment and risk prevention in the EU's least developed Member States and regions (less than 75% of average EU GDP).
- The **Regional competitiveness and employment** objective (18% allocation of funds) seeks to anticipate, adapt to and promote economic and social change, particularly through restructuring of the labour market, training, innovation, environment and risk prevention, and increasing accessibility of services of general economic interest.
- The **European territorial cooperation** objective (4% allocation of funds) is dedicated to supporting cross-border, transnational and interregional territorial development linked to Community priorities, including environment and risk prevention.

In order to meet the challenge of a significantly enlarged territory, the Commission's regulatory proposals concentrate on fewer objectives, take a more strategic approach to programming with greater decentralization of responsibilities and stronger emphasis on involving relevant stakeholders in decision-making ("partnership"). The proposed regulations seek greater coherence and complementarity between the Regional Funds and other policies and EU funding sources like the proposed European Fisheries Fund (EFF) and European Agricultural Fund for Rural Development (EAFRD)<sup>5</sup>

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<sup>3</sup> References:

- Proposal for a Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund [COM (2004) 492 final];
- Proposal for a Council Regulation establishing a Cohesion Fund [COM (2004) 494 final];
- Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund [COM (2004) 493 final];
- Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund [COM (2004) 495 final].

<sup>4</sup> Commission Communication of February 10, 2004, *Building our common future - Policy challenges and budgetary means of the enlarged Union 2007-2013* [COM(2004) 101 final].

<sup>5</sup> Proposal for a Council Regulation on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) [COM(2004)490final] and Proposal for a Council Regulation European Fisheries Fund (EFF) [COM(2004)497]



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Based on the proposed regulations, the Commission will develop a legally binding strategic guidance document that sets out European priorities for funding to be agreed by the Council, and that will guide the development of national strategies.

#### **4. The role of environment in the proposed regulations**

Although at first sight the proposed three objectives of the new Cohesion Policy appear to be focussed on economic growth, several articles reveal that environment and sustainable development belong among the Community's central priorities. Both the preamble and explanatory memorandum make specific reference to the Gothenburg objectives and sustainable development.

Environmental protection and improvement as well as environmental risk prevention are priorities among the three objectives of *Convergence*, *Regional Competitiveness and Employment*, and *Territorial Cooperation*. For the first time, specific reference is made to financing the Natura 2000 conservation network as well as energy efficiency measures, renewable energy technology and environmentally sustainable transport modes.

The Commission's proposed regulations thus offer a number of possibilities for integrating development needs with environmental protection and sustainable development more generally. However, the regulations offer only a framework of possibilities, to a certain extent leaving it to the "good will" of the Member States how – and indeed whether – they are in fact implemented. Past experience with the Regional Funds and other sources of EU co-financing, especially through the Rural Development Regulation, has shown that many EU Member States, when given the option, do not make enough use of EU financing for meeting the requirements of Community environmental legislation and reaching the Gothenburg objectives.<sup>6</sup>

#### **5. WWF Comments and proposals**

WWF welcomes the emphasis on the sustainable development of the Community as well as actions to strengthen the protection and quality of the environment. This is a step in the right direction and must be followed through in practice, e.g. by strengthening existing references, ensuring that they are pulled through in the relevant national programming and operational documents, strengthening provisions for environmental assessments as well as evaluations of the Funds and supported projects and actions.

Throughout the regulations and subsequent strategy and planning documents, the Gothenburg objectives of environmental protection and sustainable development must be treated as an integral part of, rather than add-on to, the objectives of growth and cohesion. Competitiveness and growth must be seen in a broad and long-term perspective, one that recognises that both depend on the sustainable use of natural resources so as to ensure their availability for the longer-term.

The new regulations must emphasise that environment and sustainable development is a central priority of the new Cohesion Policy. Sustainable development must be followed through all programmes and operations of the relevant funding instruments. The Community Strategic guidelines in particular will be of critical importance in spelling out in detail the EU's commitment to environmental protection and sustainable development.

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<sup>6</sup> See for example: WWF, LUPG, IDRiSi & IEEP (2002), *Europe's Rural Futures*, Brussels – Belgium.



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**WWF recommendation 1:**

*References to environment and sustainable development should be strengthened both in the final texts of the regulations as well as in the Strategic Guidance Document and the National Strategies and Operational Programmes.*

## **5.1 Key principles for a sustainable Cohesion Policy**

### **Environmental integration**

Environmental integration is anchored in the foundations of the European Union as a key principle for achieving sustainable development. According to Article 6 of the Amsterdam Treaty, “Environmental protection requirements must be integrated into the definition and implementation of Community policies and activities [...] in particular with a view to promoting sustainable development.”

Taken vertically, the principle of environmental integration is relatively strengthened in the proposed regulations, but there still exists ample space for improvement: The consistency and coherence of cohesion funding with other financial instruments, especially those for rural development and fisheries, must be ensured both in the new regulations and in the strategic programming documents. The Strategic Guidelines should make specific reference to the need that the member states set up mechanisms to ensure consistency between measures at the programme and project levels; as all of these instruments will apply to rural and marine areas, we are concerned that the allocation of funding needed to maintain the rich natural values in these environments will be shifted from one fund to the other with no co-ordination or coherence between the instruments.

Horizontally, integration of environment is relatively weakened when compared with the regulations for the period 2000-06. Measures are to be based on single fund programmes, which could result in a return to more sectoral approaches to funding and programming in comparison with the integrated approach of single programmes for all funds as currently practised.

**WWF recommendation 2:**

*Explicit reference to the goals of the European Sustainable Development Strategy and Sixth Environmental Action Programme as well as key environmental policies and legislation such as the Habitats and Birds Directives (Natura 2000 network), the Water Framework Directive, and measures leading to the achievement of the Kyoto goals on climate change must be made throughout all stages of implementing the cohesion policy. These goals must be a guiding principle in the European Strategic Guidelines, National Strategies and Operational Programmes. The latter should take due consideration in planning and funding relevant measures and projects.*



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**WWF recommendation 3:**

*Methodologies applied to monitoring and evaluation of programs and operations, need to include appraisals of the actual results and impacts of the programmes, and should include a representative set of environmental criteria and indicators. The latter should make specific reference to EU-wide environmental strategies (e.g. Sustainable Development Strategy, Kyoto protocol, water management, biodiversity protection), and should demonstrate progress against the issues identified in the ex-ante evaluation.*

**WWF recommendation 4:**

*The Commission's Strategic Guidance document must clearly state how the instruments of Cohesion Policy, agriculture and fisheries are to be linked, and propose transparent mechanisms for ensuring co-ordination at the national and regional levels. Member States should be required to demonstrate the mechanisms in place, or those that are to be set-up, to ensure policy co-ordination, and especially environmental integration.*

**Conditionality**

The general regulation states in Article 8 that all operations financed by the funds shall comply with the legal provisions of the Treaty. This should be strengthened particularly where environmental law is breached or the implementation of the environmental acquis is hindered or delayed. Particular attention needs to be paid to the application of the polluter pays principle: measures and actions that are indirectly subsidizing polluting activities, should be understood as contrary to the principle and unacceptable for the aims of the policy.

In addition, the new Cohesion Policy needs a clearer focus on supporting implementation of environmental legislation within different policy fields and intervention schemes (e.g. transport, industry, energy) by making environmental protection and nature conservation a core objective of funding, next to social and economic objectives. While the draft regulations provide a number of *options* for financing environment and sustainable development, there are at present no *obligations* to do so. Unfortunately, ample experience shows that Member States are unwilling to provide financing for environment and sustainable development even when given the option of using EU co-financing. EU funds must prioritise the achievement of Community objectives and the public benefit by placing strict conditionality on their use by Member States.

**WWF recommendation 5:**

*There should be clear conditionality in the funding allocation, with funding de-committed by the Commission in those cases where Member States fail to deliver against the environmental acquis. Particular attention should be paid to projects with large environmental impacts and funds allocated to polluting industries. In those cases, the beneficiaries should be required to demonstrate that the impacts of the projects are warranted, that they do not go contrary to major EU environmental policies and that they do not include hidden subsidies, contrary to the polluter pays principle.*



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**WWF recommendation 6:**

*Member States must show how they intend to finance the needs of the environment – especially for key issues such as Natura 2000 or the Water Framework Directive – when preparing national programmes under the Structural Funds (see page 19 of the Communication on the Financial Perspectives [COM(2004) 487 final]).*

**WWF recommendation 7:**

*Infringements or slow implementation of EU legislation in the field of the Strategic Environmental Assessment, Water Framework Directive, and the Habitats and Birds Directives (Natura 2000 network) must be sanctioned by withdrawal of funds.*

**Partnership**

The new regulations mark a departure from a more regulative approach towards more decentralised, locally guided and participatory management structures. Greater responsibility will be transferred to the national level, with the Commission withdrawing from direct control and management of the funds. Involvement of the Commission in programming will be largely limited to negotiations with the Member States regarding the strategic National Framework and Operational Programmes.

In principle, WWF welcomes this approach, which can lead to better quality in planning and management – but only if there are adequate provisions for safeguarding Community objectives, including target setting and evaluation (see below) as well as involvement of environmental authorities and organisations in decision making. The Commission should also ensure that funds and effort are invested in the proper operation of a participatory system, providing timely and correct flow of information, capacity building and training of partners, administrative and technical support as well as coverage of direct costs incurred by the partners.

In the proposed regulations, environmental NGOs, though specifically mentioned, are included in the category “any other appropriate body”. They thus are not considered to be compulsory partners as are the economic and social partners. In order to shoulder the important control functions and safeguard Community objectives, partnership structures must systematically involve environmental authorities and NGOs.

**WWF recommendation 8:**

*The Commission should establish clear and obligatory criteria for partnerships, including the equal involvement and voting rights of environmental stakeholders (including environmental NGOs) at all stages of planning and for all programmes. It should also report to the environmental alongside economic and social partners when it comes to regular annual reporting in Brussels.*



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**WWF recommendation 9:**

*Member States should be required to demonstrate the mechanism to be set up in order to provide for a effective and efficient system of participation, including the mechanisms and provisions for the timely and correct flow of information, administrative and technical support, investments in partner capacity building and training as well as covering direct costs of NGO participation in the partnerships.*

**Commission control**

In order to ensure the horizontal and vertical integration of environment into the funds, the Commission should establish a transparent system for monitoring and evaluating the operations and measuring their contribution toward the objectives set by and agreed with the Commission.

The Commission will negotiate with the Member States the National Strategic Framework as well as adopt the Operational Programmes (OPs) based on it. WWF welcomes this approach in principle, which should provide greater flexibility to respond to national and regional conditions and needs, yet warns that a strong system of target setting, evaluations and controls must be in place in order to safeguard the Community objectives that are the *raison d'être* of Community co-financing.

**WWF recommendation 10:**

*The Commission must develop a framework and assert a certain degree of control in setting targets, evaluation procedures, monitoring procedures and the establishment of partnership structures. It must also ensure that environment and risk prevention are adequately included in national strategies and programming.*

**WWF recommendation 11:**

*Strategic Environmental Assessments (SEAs) must be anchored as a compulsory part of the ex-ante evaluation. They must be systematically and compulsorily applied in all Member States, and made conditional to the allocation of funds.*

**WWF recommendation 12:**

*Evaluations should appraise the actual results and impacts of Funds assistance, with respect to the strategic objectives of the Community, including integration of environmental protection requirements as specified by Article 6 of the Amsterdam Treaty To this end, the Commission should develop a set of indicators (including sustainability indicators) and require that these be included into all ex-ante, mid-term and ex-post evaluation procedures. The annual reports by Member States and the Commission (articles 27, 28) should also make use of these indicators to assess the contribution of Cohesion policy to national and European Sustainable Development Strategies.*



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## 5.2 Key issues for a sustainable Cohesion Policy

WWF expects the new Cohesion policy to contribute to Community objectives related to the environment and sustainable development particularly with regard to funding for biodiversity, maintaining freshwater systems, and reducing CO<sub>2</sub> emissions.

### Funding for Biodiversity

According to the Commission's Communication on Financing Natura 2000<sup>7</sup>, published in July 2004, major support for implementation of the Natura 2000 network of specially protected sites is expected to come from the Community's rural and regional development support.

The regulatory proposals offer some improved opportunities to finance Natura 2000 sites, but experience has shown that Member States are less likely to choose funding for Natura 2000 over other priorities such as infrastructure development construction. In addition, there are still sizable gaps in funding for the Natura 2000 network, including, among others, costs related to management as well as information and public relations for the network.

#### **WWF recommendation 13:**

*There must be robust funding conditionality linked to Natura 2000. According to the Commission's proposed Financial Perspectives, Member States will be required to show how they intend to finance their Natura 2000 sites within their Structural Fund programmes. The Commission must not approve Member States' National Strategic Reference Frameworks or Operational Programmes, or release funds before it is confident that adequate provision for Natura 2000 financing has been put in place by Member States.*

#### **WWF recommendation 14:**

*The new General Regulation for the Structural Funds, together with the Commission's proposed Community Strategic Guidelines for EU Cohesion Policy must emphasise the importance of the Natura 2000 network.*

#### **WWF recommendation 15:**

*It is important that the 'regional competitiveness and employment' objective not only finances Natura 2000 infrastructure related to economic development, but protected area management in general. Without such a change only a small subset of Natura 2000 sites would be eligible, such as those sites that may attract large numbers of tourists, which would cause skewed coverage.*

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<sup>7</sup> Commission Communication on the Financing Natura 2000 [COM(2004) 431].



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**WWF recommendation 16:**

*proposed ESF Regulation should also be amended to reflect the recommendation of the Commission's Working Group on Article 8 of the Habitats Directive<sup>8</sup> to allow for 'on-the-job' training and capacity building in the environment and biodiversity sector, supporting the ongoing management of Natura 2000 sites.*

**WWF recommendation 17:**

*Explicit reference to Natura 2000 must be made in the regulations for the Cohesion Fund, which will support implementation of the Sixth Environmental Action Programme (6th EAP). As a key priority within the 6th EAP, biodiversity conservation, and Natura 2000 in particular, should be eligible for support from the Cohesion Fund.*

**Maintaining freshwater ecosystems**

The new regulations must clearly link water management investments to implementation of EU water legislation. Above all, clear reference must be made to the Water Framework Directive (WFD), the cornerstone of EU water policy. At present, the regulations only mention "integrated water management" as a category for measures. Past experience has shown that many regional authorities are unlikely to make use of opportunities for financing implementation of Community environmental legislation unless such specific references are included.

At the same time, potential threats to meeting the objectives of the Water Framework Directive are concealed in the Cohesion Fund Regulation's aim of linking regions to the Trans-European Network for Transport (TENs-T), in particular linking "existing local inland waterways" to the TENs-T. No new water infrastructure developments can be approved and/or funded if they do not meet specific requirements of the Water Framework Directive, in particular those in Articles 4.7, 4.8 and 4.9.

**WWF recommendation 18:**

*Promoting implementation of the Water Framework Directive must be explicitly mentioned as an objective within the EU Cohesion Policy Regulations. These must have, as a clear priority and objective, the funding of Water Framework Directive-implementation measures as part as national/regional development plans.*

<sup>8</sup>[http://europa.eu.int/comm/environment/nature/nature\\_conservation/natura\\_2000\\_network/financing\\_natura\\_2000/art8\\_working\\_group/index\\_en.htm](http://europa.eu.int/comm/environment/nature/nature_conservation/natura_2000_network/financing_natura_2000/art8_working_group/index_en.htm).



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**WWF recommendation 19:**

*Since December 2000, any new water infrastructures across the EU-25 must be shown to meet specific requirements of the Water Framework Directive before their development can be promoted or encouraged (Articles 4.7, 4.8 and 4.9 of the Water Framework Directive). These requirements should be strictly adhered to by any projects/schemes within the National Strategies and Operational Programmes.*

**Reducing CO<sub>2</sub> emissions**

Effective climate protection requires speedy implementation of sustainable energy technologies and policies. For WWF, the three key areas of action with regard to energy include: the continuous replacement of fossil and nuclear fuels with renewable energies and co-generated heat and power; a drastic increase of energy efficiency in all sectors; and a bridging strategy, in the interim, to replace coal and oil with natural gas.

These solutions are also economical. According to assessments by the EU and others, more than 20% of the EU's energy consumption could be saved through cost-effective measures in the EU-15 alone. In other words, investing in energy conservation can pay back within three years. Figures are higher in the new Member States of Central and Eastern-European. A focus on renewable energies helps not only to replace carbon pollution, but also create jobs and promote rural development. The development of modern, sustainable biomass in the power sector in particular will help to secure and create new jobs especially in rural areas. Finally, a strong focus on energy efficiency and renewable energy will decrease the EU's dependence on oil imports, and thus contribute to EU security.

**WWF recommendation 20:**

*The new Cohesion Policy regulations must give clear and targeted priority to growing sustainable renewable energies, increasing energy efficiency and implementing new technologies. Therefore, proposed projects and activities to be supported through the Regional Funds:*

- must be an integral part of an overall climate protection and sustainable development strategy of the country or the region;*
- should be replicable to a large extent in other parts of the country or abroad;*
- must demonstrate additional environmental, non-climate benefits, such as reduced air, water or soil pollution as well as, where possible, economic benefits and positive employment effects compared to a situation where the project would not be funded;*
- must focus on support for best available technologies only and thus help to create new economies of scale.*



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ATTACHMENT A: *Regions lagging behind EU average economic wealth*

