Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters 2007-2013

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PURPOSE: to propose a new Interinstitutional agreement (IIA) revising and codifying the IIA on budgetary discipline and sound financial management of 2006 to take into account the entry into force of the Treaty of Lisbon.

PROPOSED ACT: Interinstitutional agreement.

BACKGROUND: the practice to adopt a multiannual financial framework and provisions on the Interinstitutional cooperation and budgetary discipline started more than 20 years ago. It has immensely improved and simplified the annual budget procedure and cooperation between institutions and as a consequence increased the budgetary discipline.

The current multiannual financial framework for 2007-2013 was agreed between institutions in May 2006 and is laid down in the Interinstitutional Agreement on budgetary discipline and sound financial management (the IIA).

With the entry into force of the TFEU, the relevant provisions of the current IIA need to be codified into a Council Regulation laying down the multiannual financial framework (the MFF regulation). This codification represents an alignment of the provisions of the current IIA with the requirements of the Treaty.

For legal reasons, it is, however, neither possible nor feasible to transpose all provisions of the current IIA into the MFF regulation. As some of the provisions of the current IIA became obsolete with the entry into force of the Lisbon Treaty, many shall be incorporated in the MFF regulation, some in the revised Financial Regulation and still others in **an interinstitutional agreement**.

The purpose of this proposal therefore is to take up the relevant provisions from the previous IIA and to integrate in it a certain number of new provisions that have become necessary by the practice of budgetary cooperation or by the entry into force of the Treaty of Lisbon. The provisions in questions cannot be integrated in the two regulations mentioned above.

Taking into account all the relevant provisions and requirements of the Treaty in the area, the MFF proposal seeks to focus on the financial framework in the strictest sense (e.g. annual adjustments of the financial framework, revision of the financial framework…). The remaining provisions – mainly issues relating to **pure interinstitutional cooperation** – are included in a new IIA which is the subject of this procedure.

It should be noted that a certain number of provisions included in the previous IIA have **become obsolete** (i) provisions related to the distinction between compulsory and non-compulsory expenditure and the maximum rate of increase, (ii) the classification of expenditure, (iii) certain aspects of inter-institutional

cooperation relating to the modification of the budgetary procedure (no second reading, conciliation committee with a deadline of 21 days, possibility for the Commission to amend the draft budget up to the meeting of the conciliation committee, etc.).

For the sake of integrity, the draft MFF Regulation and the new IIA are presented together and should be negotiated and agreed as one integral package.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASE: Article 295 of the Treaty on the Functioning of the European Union (TFEU) – interinstitutional agreement.

CONTENT: the draft IIA takes up all the provisions of the 2006 interinstitutional agreement that:

- are not directly linked to the financial framework itself and thus covered in the MFF Regulation,
- have not been rendered obsolete by the Treaty,
- are not proposed for inclusion in the revised Financial Regulation.

The rational behind this proposal is to retain, as far as possible, the rules that are currently in place and which have proven effective, and to maintain the balance of the institutions' powers and roles in the budgetary procedure.

Introduction: overall; the IIA's structure – in three parts – has been retained.

1. **Part I** contains complementary provisions related to the multiannual financial framework and provision on special instruments not included in the financial framework.
2. **Part II**, which is accompanied by an annex, relates to the interinstitutional collaboration adapted to the new budgetary procedure. It covers, among other things, rules regarding the incorporation of financial provisions in legislative acts as well as measures relating to the financing of the CFSP and fishing agreements.
3. **Part III** contains all those provisions of Part III of the current IIA which remain valid.

Part I - Financial Framework and Special Instruments.

A. Provisions related to the financial framework:

- **information relating to operations not included in the general budget of the European Union** (i. e. the European Development Fund – the EDF) and the foreseeable development of the various categories of Union's **own resources** is set out, by way of indication, in separate tables. This information will be updated annually together with the documents accompanying the draft budget. The calendar for presentation remains practically identical (**end April/early May**);
- **margins beneath ceilings:** the MFF Regulation provides that all the budget headings respect the expenditure ceilings in each annual budgetary procedure. This practice should be maintained in order to ensure that, as far as possible, sufficient margins are left available beneath these ceilings;
- **updating of forecasts for payment appropriations after 2013**: this part remains unchanged from the previous IIA.

B. Provisions related to the special instruments not included I the financial framework: this relates to the provisions regarding the **Emergency Aid Reserve**, the **Solidarity Fund**, the **Flexibility Instrument** and the **Globalisation Adjustment Fund**. These have been retained in the IIA (aims and objectives of instruments, amounts, respective roles of the institutions in their mobilisation). It has been observed that, under existing practice, the trilogue procedure has been largely avoided (in that the two branches of the budgetary authority are generally in a position to accept the Commission's proposal without a formal

trilogue), it is proposed to align the text with what is actual practice. The requirement to initiate the trilogue for each proposal to mobilise these instruments is replaced by an obligation to initiate the trilogue only **in the case of disagreement**.

As far as the **Flexibility Instrument** is concerned, an amendment is proposed in regard to the presentation of the proposal for its mobilisation. The simplified wording would facilitate the presentation of the proposal to deploy the Flexibility Instrument at a meeting of the conciliation committee, which would help find a compromise solution for the annual budget.

Part II – Improvement of Interinstitutional collaboration during the budgetary procedure.

A. The interinstitutional collaboration procedure: the provisions on interinstitutional cooperation have undergone important changes in order to fit in with the new budgetary procedure established by the Treaty. While, in the current IIA, the provisions are spread between the body of the text and Annex II, it is now proposed to include all the provisions on interinstitutional cooperation **in the same annex**. This new annex includes the provisions of the current procedure which remain valid and which introduce **new rules required to ensure that the new budgetary procedure and the conciliation committee are operational**. The description of the principles of collaboration also covers the calendar of the budgetary procedure. The provisions agreed on the subject of amending budgets in the declaration of the three institutions, of November 2009, on transitional measures have also been incorporated in the annex.

B. Incorporation of financial provisions in legislative acts: this part has remained largely intact. The only changes seek to replace the reference to the codecision procedure by a reference to the ordinary legislative procedure, and the reference to the EC Treaty by a reference to the TFEU.

C. Expenditure relating to fisheries agreements: it is proposed to align the provisions of the current IIA on expenditure relating to fisheries agreements with the new budgetary rules. The changes proposed in the wording take account of parts of the existing text that are still relevant and only relate to good cooperation and the fact that the institutions will be kept informed on the progress of the discussions. The new wording is incorporated in the body of the new IIA and replaces Annex IV of the current IIA.

D. Financing of the Common Foreign and Security Policy (CFSP): all the provisions of the old IIA (except those in Article 12 of the MFF Regulation) have been retained in the new agreement (points 18 and 19). The references to “President of the Council” or “Council” have been replaced by “High Representative of the Union for Foreign Affairs and Security Policy”, and the terms “Council second reading” by ‘Conciliation committee”.

Part III – Sound financial management if EU funds: this part reproduces the text of the corresponding part in the current IIA, with the exception of point 45 and 47, which are obsolete. The provisions of point 44 have to be incorporated in the Financial Regulation and the appropriate basic acts relating to the Structural Funds and the Cohesion Fund.

A. Financial programming: the provisions on financial programming are unchanged. The only two minor changes involve the deletion of the reference to the “preliminary” draft budget and the replacement of Part D of Annex II on the ceilings for pilot projects and preparatory actions by a reference to Article 32 of the implementing rules of the Financial Regulation;

B. Agencies and European schools: although the first part is identical to the current IIA, it is proposed to insert, in the second part, the provisions approved jointly by the three institutions, on 12 November 2009, on the implementation of this procedure so as to retain in this IIA a single body of rules regarding cooperation in the budgetary field (see INI/2009/2168);

C. New financial instruments: provisions relating to new financial instruments have been retained with just one change: the deletion of the reference to the "preliminary" draft budget.

Lastly, it should be noted that a certain number of provisions have been incorporate in the revised Financial Regulation (see initial proposal of COD/2010/0047).

Entry into force:it is planned that the new IIA will enter into force the same day as the proposed MFF Regulation. The new IIA will at that point replace the current agreement.

BUDGETARY IMPACT: the proposal has no impact on the EU's budget.