External actions: financing instrument for cooperation with industrialised and other high-income countries and territories

2009/0059(COD) - 10/12/2010 - Council position

The Council adopted its position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories.

The proposal aims to extend the scope of the initial Regulation to a number of countries covered by Regulation (EC) No 1905/2006 establishing the Development Cooperation Instrument (DCI) and to provide a proper legislative basis to activities which, since they do not constitute Official Development Assistance as defined by the OECD, are excluded by the scope of the DCI Regulation. The amended ICI Regulation will thus allow strengthening links and engaging further with important global emerging partners with whom the European Union has a strategic interest in promoting diversified links and creating a more favourable environment for the development of the relations.

European Parliament amendments: the proposal was presented by the Commission under the provisions of the Nice Treaty, requiring the European Parliament to be consulted. With the entry into force of the Lisbon Treaty on 1st December 2009, the legal basis implied application of the ordinary legislative procedure. With these changes in mind the Council reached out to the European Parliament at an early stage of the legislative process and engaged into substantial negotiations between the institutions. This resulted in a **large degree of convergence on many amendments put forward by the European Parliament in its first reading**, enabling the Council to incorporate a large number of the European Parliament's first-reading amendments into its first reading position.

The Council cannot follow the European Parliament in two points:

- **delegated acts (article 290 TFEU)**: the European Parliament adopted several amendments which introduce the application of the procedure of the delegated acts for the adoption of multi-annual cooperation programmes (multiannual strategy papers). This is not acceptable for the Council. The Council believes that the multi-annual cooperation programmes, not being legally binding acts, do not constitute acts of general application, supplementing or amending the basic act. They constitute implementing measures within the meaning of article 291 TFEU;
- **article 16 on the financial provisions**: the amendments adopted by the European Parliament in article 16 are not acceptable for the Council. While similar concerns were voiced in the Council regarding the programming of financial appropriations and possible transfers between budget lines, the Council is of the opinion that these matters are to be decided by the two budgetary branches - the Council and the European Parliament - in the framework of the annual budgetary procedure and should not be part of the legislative text. The Council thus prefers the text as proposed initially by the Commission, assorted with a declaration by the Commission in which it provides reassurances as to the usage of funds. The declaration is annexed to the Council's position in first reading.

In conclusion, with a view to reaching an early agreement on the amended Regulation, the Council has engaged in substantial negotiations with the European Parliament, facilitated by the European Commission. The negotiations have led to a large degree of consensus on the text. While the proposal of

the Commission did not present substantial difficulties to the Council, the Council made a special effort to meet a number of concerns of the European Parliament related to the application of the amended Regulation.

The Council calls on the European Parliament to go along with this text which reflects the compromises reached in the negotiations in order to allow for the entry into force of the Regulation in 2010. **This would permit that the funds already inscribed in the 2010 budget are not lost for the projects intended**.