Basic information

2009/0059(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
External actions: financing instrument for cooperation with industrialised and other high-income countries and territories Amending Regulation (EC) No 1934/2006 2006/0807(CNS) See also 2009/0060A(COD) See also 2009/0060B(COD) See also 2010/0059(COD) **Subject** 6.20.03 Bilateral economic and trade agreements and relations 6.30.02 Financial and technical cooperation and assistance 6.40.05.06 Relations with the countries of the Middle East 6.40.08 Relations with Asian countries 6.40.10 Relations with Latin America, Central America, Caribbean islands **Geographical area** Brazil China India Iran Iraq Mexico South Africa Yemen	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CODE Parliament delegation to Conciliation Committee	SCHOLZ Helmut (GUE/NGL)	15/02/2011

Former committee responsible	Former rapporteur	Appointed
INTA International Trade	SCHOLZ Helmut (GUE/NGL)	17/01/2011
INTA International Trade	SCHOLZ Helmut (GUE/NGL)	01/09/2009

Former committee for opinion	Former rapporteur for opinion	Appointed
AFET Foreign Affairs (Associated committee)	LOCHBIHLER Barbara (Verts/ALE)	16/09/2009

	DEVE Development	DEVA Nirj (ECR)	03/09/2009
	BUDG Budgets	LAMASSOURE Alain (PPE)	05/10/2009

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3057	2010-12-10
Agriculture and Fisheries	3108	2011-07-19
Education, Youth, Culture and Sport	3128	2011-11-28

European Commission

Commission DG	Commissioner
External Relations	ASHTON Catherine

Key events

Date	Event	Reference	Summary
21/04/2009	Legislative proposal published	COM(2009)0197	Summary
14/09/2009	Committee referral announced in Parliament, 1st reading		
02/12/2009	Additional information		Summary
11/02/2010	Referral to associated committees announced in Parliament		
17/03/2010	Vote in committee, 1st reading		Summary
23/03/2010	Committee report tabled for plenary, 1st reading	A7-0052/2010	
20/10/2010	Debate in Parliament		
21/10/2010	Decision by Parliament, 1st reading	T7-0381/2010	Summary
21/10/2010	Results of vote in Parliament		
10/12/2010	Council position published	16440/1/2010	Summary
16/12/2010	Committee referral announced in Parliament, 2nd reading		
26/01/2011	Vote in committee, 2nd reading		Summary
27/01/2011	Committee recommendation tabled for plenary, 2nd reading	A7-0005/2011	
03/02/2011	Decision by Parliament, 2nd reading	T7-0033/2011	Summary
03/02/2011	Debate in Parliament		
19/07/2011	Parliament's amendments rejected by Council		
06/09/2011	Formal meeting of Conciliation Committee		
31/10/2011	Final decision by Conciliation Committee		
31/10/2011	Joint text approved by Conciliation Committee co-chairs	00056/2011	

24/11/2011	Report tabled for plenary, 3rd reading	A7-0401/2011	
28/11/2011	Decision by Council, 3rd reading		
30/11/2011	Debate in Parliament		
01/12/2011	Decision by Parliament, 3rd reading	T7-0533/2011	Summary
13/12/2011	Final act signed		
13/12/2011	End of procedure in Parliament		
30/12/2011	Final act published in Official Journal		

Technical information

Procedure reference	2009/0059(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1934/2006 2006/0807(CNS) See also 2009/0060A(COD) See also 2009/0060B(COD) See also 2010/0059(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 212 Treaty on the Functioning of the European Union TFEU 207-p2 Treaty on the Functioning of the European Union TFEU 209-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CODE/7/05309

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	BUDG	PE430.373	17/11/2009	
Committee draft report		PE428.224	14/01/2010	
Amendments tabled in committee		PE439.137	16/02/2010	
Committee opinion	AFET	PE438.170	02/03/2010	
Committee opinion	DEVE	PE428.225	04/03/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0052/2010	23/03/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0381/2010	21/10/2010	Summary
Committee draft report		PE456.674	14/01/2011	
Amendments tabled in committee		PE456.832	19/01/2011	
Committee recommendation tabled for plenary, 2nd reading		A7-0005/2011	27/01/2011	

Text adopted by Parliament, 2nd reading		T7-0033/2011	03/02/2011	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A7-0401/2011	24/11/2011	
Text adopted by Parliament, 3rd reading		T7-0533/2011	01/12/2011	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	17378/2010	06/12/2010	
Council position	16440/1/2010	10/12/2010	Summary
Draft final act	00056/2011/LEX	13/12/2011	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2009)0197	21/04/2009	Summary
Document attached to the procedure	SEC(2009)0531	21/04/2009	
Document attached to the procedure	SEC(2009)0532	21/04/2009	
Commission communication on Council's position	COM(2010)0786	13/12/2010	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2011)0167	01/04/2011	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CSL/EP	Joint text approved by Conciliation Committee co-chairs	00056/2011	31/10/2011	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2011/1338
OJ L 347 30.12.2011, p. 0021 Summary

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

2009/0059(COD) - 01/12/2011 - Text adopted by Parliament, 3rd reading

The European Parliament adopted by 590 votes to 26, with 16 abstentions, at third reading of the ordinary legislative procedure, a legislative resolution on the joint text approved by the Conciliation Committee for 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 European Parliament approves the joint text.

It should be noted that two statements are annexed to the resolution which were accepted by Parliament in plenary:

Statement by the European Parliament and the Council on the use of Delegated Acts in the future Multiannual Financial Framework (MFF) 2014-2020: the two institutions take note of the Commission Communication "A Budget for Europe 2020" , in particular in relation to the proposed use of delegated acts in the future external financing instruments and await legislative proposals, which will be duly considered. The document states that the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of legislator. It is considered that democratic scrutiny of external aid must be improved. This could be achieved by the **use of delegated acts in accordance with Article 290 of the Treaty** for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming.

Commission declaration concerning Article 16: the Regulation addresses the issue of support for a number of specific non-Official Development Assistance (ODA) activities in countries covered by the Development Cooperation Instrument (DCI Regulation n°1905/2006). The Regulation is intended to be a one-off solution to this issue. The Commission reaffirms that the eradication of poverty, including the pursuit of the Millennium Development Goals, is the primary objective of its development cooperation and remains a priority. It recalls that the financial reference amount fixed in Article 16 for countries listed in Annex II will be implemented using **dedicated budget lines which are intended for activities other than Official Development Assistance**. Furthermore, the Commission confirms its intention to respect the financial reference amount fixed in Article 38 of the Development Cooperation Instrument (Regulation n° 1905/2006) for the period 2007-2013 as well as the provisions in the same Regulation regarding the fulfilment of the criteria for ODA. It recalls that on the basis of its current financial planning, **this reference amount will be exceeded in 2013**. In this context, the Commission intends to propose draft budgets which ensure a progression in development assistance for Asia and Latin America under the DCI Regulation n°1905/2006 over the period until 2013 **so that the currently projected ODA amounts under the DCI and the EU budget generally are not affected**.

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

2009/0059(COD) - 13/12/2011 - Final act

PURPOSE: to amend Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised countries (ICI) with a view to extending its geographical scope to the DCI countries under Regulation (EC) No 1905/2006.

LEGISLATIVE ACT: Regulation (EU) No 1338/2011 of the European Parliament and of the Council of 13 December 2011 amending Council Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories.

BACKGROUND: since 2007 the Community has streamlined its geographical cooperation with developing countries in Asia, Central Asia and Latin America, and with Iraq, Iran, Yemen, and South Africa under Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation (DCI). The primary objective of Regulation (EC) No 1905/2006 is the eradication of poverty through the pursuit of the Millennium Development Goals. The scope of cooperation for the geographic programmes with developing countries, territories and regions established under that Regulation is limited materially to financing measures designed to fulfil the criteria for Official Development Assistance ('ODA criteria')

The aim of this Regulation is to go further and to deepen its relations with the developing countries concerned, in particular in areas such as economic, commercial, academic, business and scientific exchanges. The EU needs a financial instrument that allows the financing of such measures which, in principle, do not qualify as ODA under the ODA criteria but which are crucially important in terms of consolidating relations and which make an important contribution to promoting the progress of the developing countries concerned.

Since the objectives and provisions of Council Regulation (EC) No 1934/2006 are appropriate for pursuing such enhanced cooperation with countries falling under Regulation (EC) No 1905/2006, it is intended to extend the geographical scope of Regulation (EC) No 1934/2006 and to provide for a financial envelope to cover cooperation with those developing countries.

CONTENT: following a conciliation committee with the European Parliament and following a vote in third reading, this Regulation aims to extend the geographic scope of Regulation 1934/2006 to the developing countries. "Developing countries" comprises countries falling under Regulation (EC) No 1905/2006 (DCI Regulation) and listed in Annex II to this Regulation. Annex I lists industrialised countries and territories. They are together referred to as "partner countries".

Generally, the extension of the scope of Regulation (EC) No 1934/2006 does not mean that the countries previously falling within the scope of that regulation (industrialised and other high-income countries and territories) are placed at a disadvantage, particularly in financial terms.

The funds can now be used for cooperation with developing countries in addition to the original 46 countries in Latin America, Asia and the Middle East, which included Brazil, China, India and Iraq.

Type of cooperation envisaged with partner countries: Union financing under this Regulation will support economic, financial, technical, cultural and academic coop-eration with partner countries in certain specified areas:

- the promotion of democracy, respect for human rights and fundamental freedoms, and the rule of law ;
- the promotion of decent work and good governance;
- the preservation of the environment, in order to contribute to progress and sustainable development processes.

Specific areas of cooperation are set out in the Regulation, in particular: (i) the promotion of cooperation, partnerships and joint undertakings between economic, social, cultural, academic and scientific actors in the Union and partner countries; (ii) the stimulation of bilateral trade; (iii) the promotion of dialogue between political, economic, social and cultural actors and other non-governmental organisations; (iv) the promotion of people-to-people links including participation in Erasmus Mundus and in European education fairs; (v) the promotion of cooperative projects in areas such as research, science and technology, sports and culture, energy (in particular renewable energy), etc. ; (vi) the enhancement of awareness about and understanding of the Union and of its visibility in partner countries.

Social and environmental standards: it is provided that for Union financing under this Regulation, particular attention shall be paid where appropriate to the compliance of partner countries with the core labour standards of the International Labour Organisation (ILO) and to their efforts to pursue reductions of greenhouse gas emissions.

Coherence and complementarity: for measures financed under the Regulation, the Union will aim to ensure coherence with other areas of its external action as well as with other relevant Union policies, in particular development cooperation. This shall be ensured by formulating policy, strategic planning and the programming and implementation of measures.

Technical amendments: the amended Regulation also contains several technical amendments to resolve inconsistencies in the provisions that exclude costs relating to taxes, duties or other charges as ineligible. For the sake of consistency, it brings those provisions into line with the other instruments.

Transparency and informing the European Parliament: when the Commission amends the lists in Annexes I and II following the regular OECD/DAC reviews, it must inform the European Parliament and the Council. The Commission shall also inform and have regular exchanges of views with the European Parliament. It will transmit to Parliament and Council the annual action programmes adopted, based on multiannual cooperation programmes referred to in the text.

Financial provisions: the financial reference amount for the implementation of the Regulation **for the period from 2007 to 2013 is EUR 176 million for the new DCI countries**. An annex gives details of the distribution of funds by priority areas for cooperation with the new partner countries from 2011 to 2013.

It should be noted that in a unilateral declaration, the Commission reaffirms that the eradication of poverty, including the pursuit of the Millennium Development Goals, is the primary objective of its development cooperation and remains a priority. The Commission intends to propose draft budgets which ensure a progression in development assistance for Asia and Latin America under the DCI Regulation No 1905/2006 over the period until 2013 so that the currently projected ODA amounts under the DCI and the EU budget generally are not affected. The financial reference amount fixed in Article 16 for countries listed in Annex II will be implemented using dedicated budget lines, which are intended for activities other than Official Development Assistance.

Evaluation and annual report: the Commission shall regularly evaluate the actions and programmes financed under the Regulation, where appropriate or at the request of the European Parliament or the Council, by means of independent external evaluation reports. The Commission shall examine the progress made on implementing the measures taken under the Regulation and shall submit to the European Parliament and the Council a detailed annual report on the implementation of the Regulation.

ENTRY INTO FORCE: 31/12/2011.

DELEGATED ACTS: certain amendments regarding the extent of powers conferred in the Commission in the Regulation were the subject of intensive discussions in the conciliation committee. In this context, a bilateral declaration was inserted into the Regulation stating that the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of the legislature (Parliament and Council.) The Commission has stated that it is considered that democratic scrutiny of external aid must be improved. This could be achieved by the use of delegated acts in accordance with Article 290 of the Treaty for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming. (Please see the Commission Communication entitled “A budget for Europe 2020”.)

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

2009/0059(COD) - 21/04/2009 - Legislative proposal

PURPOSE: to amend Regulation 1934/2009/EC establishing a financing instrument for cooperation with industrialised (ICI) with a view to extending its geographical scope to the DCI countries.

PROPOSED ACT: Council Regulation.

BACKGROUND: since 2007 the Community has streamlined its geographical cooperation with developing countries in Asia, Central Asia, and Latin America and with Iraq, Iran, Yemen, and South Africa under Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation (DCI). The scope of cooperation for the geographic programmes with developing countries, territories and regions established under the Regulation is furthermore limited materially to financing measures to eradicate poverty through the pursuit of the Millennium Development Goals (MDGs).

It is in the Community's interests to further deepen its relations with the developing countries concerned, which are important bilateral partners and players in multilateral for a (e.g. Brazil, India or China). It therefore needs a financial instrument that allows the financing of such measures which, by their nature, do not qualify as Official Development Assistance.

For that purpose, four Preparatory Actions were set up in the 2007 and 2008 budget procedures to initiate enhanced cooperation in business and scientific exchanges with countries in Asia and Latin America. It is however necessary to provide a legal basis for this specific type of cooperation in order to formalise these exchanges with high-income group countries.

IMPACT ASSESSMENT: the Commission considers **4 policy options**: 1) No EU action: cooperation with the countries concerned remains strictly in the framework of the DCI regulation; 2) amend DCI Regulation: add an additional strand to the regulation to finance 'non-ODA activities' with a ring-fenced amount; 3) amend ICI Regulation: extend the geographical scope of the regulation to DCI countries with a ring-fenced amount; 4) table a new instrument.

The different options have been analyzed on the criteria of coherence, efficiency and effectiveness. Option 1 is not considered a valid option in view of the need to fill the legislative gap. Option 2 would be the most coherent, but it is not recommended as it would bring different objectives under the same regulation: eradicating poverty and fostering Community interests. In conclusion, Option 3 is considered the most appropriate and effective legislative option in view of the major simplification of the financial instruments.

CONTENT: the proposal thus intends to extend the geographical scope of the countries covered by the DCI Regulation which was initially set up for industrialised and high-income countries. The primary objective of cooperation shall be to provide a specific response to the need to strengthen links and to engage further with them on a bilateral, regional or multilateral basis in order to create a more favourable environment for the development of the relations of the Community with these countries and territories and promote dialogue while fostering Community's interests. It shall be aimed at engaging with partners which share similar political, economic and institutional structures and values to the Community and which are important bilateral partners and players in multilateral fora and in global governance.

Two annexes have therefore been included in the Regulation:

- Annex I (existing) covering industrialised and other high-income countries and territories ;
- Annex II (new) covering DCI developing countries (46 countries).

Furthermore, in duly justified circumstances and in order to foster regional cooperation, the Commission may decide when adopting action programmes that countries not listed in the Annexes are eligible, where the project or programme to be implemented is of regional or cross-border nature.

BUDGETARY IMPLICATIONS: additional appropriations are requested for this new type of cooperation – corresponding to the continuation of the 2007 to 2008 preparatory actions. As a result, although the financial envelope amounts to EUR 176 million, the budgetary impact is **EUR 67.5 million from 2010 to 2013** to cover activities relating to the follow-up of these actions.

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

2009/0059(COD) - 01/04/2011 - Commission opinion on Parliament's position at 2nd reading

The Commission states that it can accept the text as it was agreed between the three institutions during the trilogues which took place in October and November 2010 The text contains some 20 amendments to the Commission proposal.

The Commission cannot accept the Articles relating to delegated acts and comitology issues. **The Commission cannot accept Article 16 on the financial provisions** which states that DCI money cannot be used to fund the ICI Plus. This amendment is not acceptable. The decision on the source of funding is the prerogative of the budgetary authority when it adopts each year the budget. It cannot be part of a legislative act. The Article has to adhere to standard provisions as set out in every financial instrument. However, in order to facilitate agreement and re-assure the institutions, the Commission is ready to make a statement, recalling that the financial reference amount fixed in Article 16 for countries listed in Annex II will be implemented using dedicated budget lines which are intended for activities other than Official Development Assistance.

The discussions with the co-legislators shall continue after the second reading, in order to work on a consensual solution preferably giving Parliament substantive scrutiny rights for the remainder of the current Multiannual Programming Period and leaving options open for the next one, including the possibility of having recourse to delegated acts while fully respecting the criteria established in Article 290 TFEU.

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

2009/0059(COD) - 13/12/2010 - Commission communication on Council's position

In its communication to the European Parliament concerning the position of the Council on the adoption of a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories, the Commission can accept the Council position which is the outcome of constructive negotiations between the three institutions. It is in line with the essential objectives and the underlying approach of the Commission’s initial proposal.

A compromise text was negotiated initially by Parliament, Council and Commission to achieve an agreement at Parliament’s first reading originally foreseen in June 2010. To this end trilogues were held on 13 April and 5 May. However, an agreement was not possible either in June or July because of the specific issues mentioned below.

Main characteristics of the negotiated common position: the Council position reflects the following key elements:

- it is in the Union’s interest to further deepen its relations with the developing countries in areas such as economic, commercial, academic, business and scientific exchanges – activities which even though in the EU interest, may not qualify as ODA;
- the instrument will finance measures which in principle do not qualify as ODA.

Amendments by Parliament not acceptable to Council):

- **delegated acts (Article 290 TFEU)**: Parliament seeks by its first reading amendments to apply this procedure to the adoption of multiannual strategy papers by the Commission. Despite long and intensive negotiations (notably trilogues held on 2 February, 23 March and 20 October) it was not possible to reach agreement on this issue. The Council has not accepted these amendments in its positions at first reading The Commission is ready to continue efforts to reconcile the positions of the institutions and to find ways to meet the substantive concerns behind Parliament’s amendments, in particular in ensuring that Parliament can exercise appropriate oversight over the formulation of external cooperation strategies and the proper implementation of external financial instruments;
- **article 16 on the financial reference amount**: Parliament adopted an amendment to this article which the Council has not accepted in its first reading, preferring to retain the text proposed initially by the Commission. The Commission supports the Council position since it reflects the standard text on financial reference amounts which is included in every financial instrument. However, in order to facilitate agreement and re-assure the institutions, the Commission is ready to make the attached statement.

The Council position incorporates a negotiated compromise text which reflects to a very large extent the European Parliament's requests and amendments at first reading. The Commission can therefore accept the Council position at first reading.

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** .

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

2009/0059(COD) - 21/10/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 586 votes to 27, with 10 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories.

The Parliament adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's position as follows:

Distinction between Regulation No 1934/2006 and Regulation No 1905/2006: extending the geographical scope of Regulation (EC) No 1934/2006 brings the developing countries concerned within the scope of two different external action financial instruments. It is therefore necessary to distinguish between these two instruments. Measures which fulfil **the ODA criteria as set by the OECD** will be financed under Regulation (EC) No 1905/2006, whereas Regulation (EC) No1934/2006 will apply exclusively to measures which, in principle, do not fulfil those criteria. The title of the Regulation is therefore modified with this in mind.

Partner countries: the amended regulation establishes a list of partner countries. It covers industrialised and other high-income countries and territories covered by Regulation (EC) No 1934/2006, which are listed in Annex I, and developing countries covered by Regulation (EC) No 1905/2006, which are listed in Annex II (e.g. Brazil, India, China…). It should be noted that the extension of the geographical scope should not have as an effect the placing of industrialised and other high-income countries in a less favourable position.

Objective of cooperation: the amended text specifies that the Regulation must support not only economic, financial and technical cooperation but also **cultural and academic cooperation** in partner countries. In addition to strengthening economic links and bilateral agreements with partner countries, the amended Regulation should help create a more **favourable and transparent environmentfor the development of relations** between the partner countries and facilitate the promotion of **democracy, respect for human rights and fundamental freedoms**. Lastly, the amended Regulation should contribute to promoting decent working conditions, good governance, and the preservation of the environment, in order to contribute to progress and sustainable development processes in the partner countries.

Respect by the partner countries of the International Labour Organisation (ILO) standards and environmental standards: the compromise states that Community aid should be proportionate to the efforts made by the recipient countries to open up their markets, comply with the international agreements of the World Trade Organisation (WTO) and of the International Labour Organisation (ILO), and help to pursue global objectives to reduce greenhouse gas emissions.

Consistency with other areas of external action: overall, measures financed under this Regulation, should aim to ensure consistency with other areas of the EU's external action, as well as other relevant Community policies, in particular development cooperation or the facility for rapid response to soaring food prices in developing countries. This shall be ensured by formulating policy, strategic planning and the programming and implementation of measures. In this respect, the compromise clarifies the types of measures that will receive funding under this Regulation. These measures should in particular aim to promote cooperation, partnerships and joint undertakings between economic, social, cultural, academic and scientific actors in the Community and partner countries; stimulate bilateral trade, investment flows and economic partnerships; promote dialogues between political, economic, social and cultural actors and other non-governmental organisations in relevant sectors in the Community and partner countries; promote people-to-people links such as through the Erasmus Mundus Programme; and lastly promote cooperative projects in areas such as research, science and technology, sports and the environment, etc… It should be noted that Community assistance under this Regulation shall not be used to finance the procurement of arms or ammunition, and operations having military or defence implications.

Performance of supervisory and follow-up tasks under this Regulation: Union financing may cover expenditure associated with the preparation, follow up, monitoring, audit and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, and any other administrative or technical assistance expenditure that the Commission, including at its Delegations in the partner countries, may incur for the management of operations financed under this Regulation. Information concerning these support measures should be provided to Parliament and Council.

Adoption of a differentiated approach in regard to partner countries and added value to existing actions: the implementation of this Regulation should pursue a differentiated approach in designing cooperation with partner countries to take account of their economic, social and political contexts, as well as of the Union's specific interests, strategies and priorities. Measures financed under this Regulation shall complement and bring added value to the efforts undertaken by Member States and Union public bodies in the area of commercial relations and cultural, academic and scientific exchanges.

Greater involvement of the European Parliament: in addition to the obligation to inform the European Parliament on the measures financed under this Regulation (in particular, through the regular exchange of views on the proposed actions, the annual action programmes, the evaluation reports,…), the compromise provides that the Commission informs the European Parliament of any likely changes to be made to the list of partner countries (Annexes I and II of the draft Regulation) at the same time as the Council.

Delegated acts: the amended text specifies that the Parliament shall be more involved in the drawing up and the revision of multiannual cooperation programmes, including the power to raise objections to these proposals, if appropriate, in view of the entry into force of the Lisbon Treaty and the introduction of delegated acts (Article 290 of the TFEU) which gives Parliament a *de facto* right of veto enabling it to require the Commission to present amended proposals for the adoption of multiannual cooperation programmes. A new comitology procedure is laid down for this purpose (Article 14a). Annual action programmes, on the other hand, may be adopted by the Commission taking into account Parliament's and Council's opinions but recourse to the delegated acts procedure will not be necessary for amendments to action programmes such as technical adjustments or other minor changes.

Protection of the Union's financial interests: new provisions are introduced to ensure the protection of the Union's financial interests, in particular in regard to irregularities, fraud, corruption or other illicit activities.

Evaluation of actions: the Commission shall regularly evaluate the actions and programmes financed under this Regulation, where appropriate or **at the request of the European Parliament** or the Council by means of independent external evaluations, in order to ascertain whether the objectives have been met and to enable it to formulate recommendations with a view to improving future operations. The results shall feed back into programme design and resource allocation. The Commission shall **associate relevant stakeholders, including non-State actors**, in the evaluation phase of the Union cooperation provided for under this Regulation.

Report on implementation: the compromise includes a new provision requiring that the Commission examines the progress made on implementing the measures taken under this Regulation and submits to the European Parliament and the Council a detailed annual report on the implementation of this Regulation. The report shall set out the results of implementation of the budget and present all the actions and programmes financed, and, as far as possible, set out the main outcomes and impacts of the cooperation actions and programmes.

Financial provisions: although the amount proposed by the Commission (EUR 172 million for countries listed in Annex I (industrialised countries) and EUR 176 million for countries listed in Annex II (developing countries) has not been amended in the compromise, the amended text requires the Commission to provide Parliament with detailed information on all budget lines and the annual appropriations to be used for financing the measures under this Regulation. It is also stated that the industrialised and other high-income countries and territories listed in Annex I should not be placed at a disadvantage by the application of the present regulation to the partner countries listed in Annex II. Moreover, appropriations programmed for use under Regulation (EC) No 1905/2006 shall not be used for this purpose.

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

2009/0059(COD) - 03/02/2011 - Text adopted by Parliament, 2nd reading

The European Parliament adopted by 586 votes to 23, with 23 abstentions, a legislative resolution on the Council 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.

It adopted its position at second reading under the ordinary legislative procedure.

The amendments concern in particular the issue of **delegated acts** and may be summarised as follows:

Following the entry into force of the Lisbon Treaty, the European Parliament is now fully recognised as co-legislator alongside the Council on virtually all legislation. Parliament considers that this should be reflected in the area of the implementation of external cooperation financial instruments. During the first reading in October 2010, Parliament expressed its favour for the application of the "delegated acts" procedure for the financing instruments for external assistance. This procedure significantly strengthens Parliament's powers: Parliament's veto right allows it to block a draft measure it objects against, and requires the Commission to present an amended proposal.

Consequently, Parliament calls for:

- the Commission to be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in respect of multiannual cooperation programmes, as these programmes supplement Regulation (EC) No 1934/2006 and are of general application;
- annual action programmes to be adopted by the Commission taking into account the opinions of the European Parliament and of the Council. This procedure needs not be used for amendments to action programmes, such as those making technical adjustments, extending the

implementation period, reassigning funds between the planned operations within the forecast budget, or increasing or reducing the size of the budget by less than 20 % of the initial budget, provided these amendments are consistent with the initial objectives set out in the action programmes;

- the Commission to send the evaluation reports to the European Parliament and to the Council for information.

Other amendments focus on the duration of the delegation of power, as well as the conditions to be respected by the delegations.

Lastly, Parliament calls on the Commission to provide the budgetary authority with detailed information on all budget lines and the annual appropriations to be used for financing the measures under this Regulation. Those appropriations shall be authorised by the budgetary authority within the limits of the financial framework. Care should also be taken to ensure that the industrialised and other high-income countries and territories listed in Annex I are not placed at a disadvantage by the application of this Regulation to the partner countries listed in Annex II.