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Committee on Development

2011/0415(COD)

15.5.2012

DRAFT OPINION

of the Committee on Development

for the Committee on Foreign Affairs

on the proposal for a regulation of the European Parliament and of the Council
establishing common rules and procedures for the implementation of the
Union's instruments for external action
(COM(2011)0842 – C7-0494/2011 – 2011/0415(COD))

Rapporteur: Thijs Berman

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SHORT JUSTIFICATION

The Committee on Foreign Affairs and the Committee on Development agreed on the application of Rule 50 of Parliament's Rules of Procedure ("associated committees") to the legislative report on this Regulation. The Committee on Development has exclusive competence for the following aspects of the Commission proposal for a regulation:

- provisions on the untying of aid (Article 8) in so far as the actions concerned fulfil the criteria of ODA;
- provisions relating to the untying of aid as regards their specific application to the DCI (currently in Article 9);
- other provisions specifically and exclusively applying to the DCI, also those which are not yet contained in the proposal and which do not undermine the overall coherence of the instruments covered by the regulation, including in particular provisions relating to the use of budget support to developing countries covered by the DCI.

The exclusive application to the DCI and/or to ODA is clearly indicated in the amendments tabled by the Committee on Development under its exclusive competence.

AMENDMENTS

The Committee on Development calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) The European Union should adopt a comprehensive set of instruments covering a range of policies related to external action, which **require** specific common rules and procedures for their implementation. These are: the Development Cooperation Instrument ('DCI'), the European Instrument for Democracy and Human Rights ('EIDHR'), the European Neighbourhood Instrument ('ENI'), the Instrument for Stability ('IfS'), the Instrument for Nuclear Safety Cooperation ('INSC'), the Instrument for

Amendment

(1) The European Union should adopt a comprehensive set of instruments covering a range of policies related to external action, which **might benefit from** specific common rules and procedures for their implementation. These are: the Development Cooperation Instrument ('DCI'), the European Instrument for Democracy and Human Rights ('EIDHR'), the European Neighbourhood Instrument ('ENI'), the Instrument for Stability ('IfS'), the Instrument for Nuclear Safety Cooperation ('INSC'), the Instrument for

Pre-accession Assistance ('IPA') and the Partnership Instrument ('PI').

Pre-accession Assistance ('IPA') and the Partnership Instrument ('PI').

Or. en

Justification

The adoption of common rules is no legal obligation; the functioning of the instruments will not necessarily be hampered by the absence of common rules. Therefore, common rules should be applied wherever possible but with enough flexibility for each instrument to be guided by its own specific rules in function of its specificity and own objectives.

Amendment 2

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) These instruments generally provide that actions to be funded on their basis should be the object of a multiannual ***indicative*** programming, providing the framework within which financing decisions should be adopted in accordance with the Financial Regulation, and with the procedures provided for in ***Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.***

Amendment

(2) These instruments generally provide that actions to be funded on their basis should be the object of a multiannual ***strategic*** programming, providing the framework within which financing decisions should be adopted in accordance with the Financial Regulation, and, ***both for the programming and the implementing decisions,*** with the ***adequate*** procedures provided for in ***Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).***

Or. en

Justification

A distinction must be made between programming decisions, which are partly political in nature, and pure implementing decisions

Amendment 3

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The documents that define for each financial programme the objectives, priorities, expected results and financial allocations in broad terms are strategic programming documents. With a view to increasing flexibility and efficiency for their adoption and revision, a delegation of power should be conferred to the Commission.

Or. en

Justification

A distinction must be made between programming decisions, which are partly political in nature – and therefore the co-legislators should be involved in their establishment – and purely implementing decisions. For the programming decisions, wording has been taken from the Conference of Presidents' decision of 9.9.2010.

Amendment 4

Proposal for a regulation Recital 3

Text proposed by the Commission

Amendment

(3) The financing decisions should take the forms of Annual or ***Multiannual*** Action programmes and Individual Measures when following the planning provided for by the multiannual ***indicative*** programming, of Special Measures where required by unforeseen and justified needs, and of Support Measures.

(3) The financing decisions should take the forms of Annual or ***Biennial*** Action programmes and Individual Measures when following the planning provided for by the multiannual ***strategic*** programming, of Special Measures where required by unforeseen and justified needs, and of Support Measures.

Or. en

Justification

In the set of Instruments currently in force, the main implementing documents are the Annual

Action Programmes. While accepting the Commission's request for more flexibility, a balance should be found between the necessity of parliamentary oversight - which is easier to exercise over measures for a shorter period - and the flexibility desired by the Commission. Extending the period for the action programmes from one year - as in the current DCI - to two years is an acceptable compromise.

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Taking into account the **policy programming or** financial execution nature of those implementing acts, in particular their budgetary implications, the examination procedure should in general be used for their adoption, except for measures of a **small** financial scale. **However, the Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the need for a swift response from the Union, imperative grounds of urgency so requires.**

Amendment

(4) Taking into account the financial execution nature of those implementing acts, in particular their budgetary implications, the examination procedure should in general be used for their adoption, except for **individual measures, special measures and support** measures of a financial scale **below EUR 10 million**.

Or. en

Justification

The principle should be that important programming decisions should be taken under the delegated acts procedure, implementing decisions involving normal foreseeable measures in line with the programming decisions or involving important sums of money under the examination procedure, and – in order to avoid micromanagement – decisions involving less important sums under the advisory procedure, while flexibility should be foreseen for the Commission to take swiftly urgent emergency decisions. The cut-off amount of EUR 10 million was agreed by all institutions in 2006 and is already in force in the current DCI.

Amendment 6

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The advisory procedure should in general be used for the adoption of individual measures, special measures and support measures of a financial scale below EUR 10 million. However, the Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the need for a swift response from the Union, imperative grounds of urgency so requires.

Or. en

Justification

The principle should be that important programming decisions should be taken under the delegated acts procedure, implementing decisions involving normal foreseeable measures in line with the programming decisions or involving important sums of money under the examination procedure, and – in order to avoid micromanagement – decisions involving less important sums under the advisory procedure, while flexibility should be foreseen for the Commission to take swiftly urgent emergency decisions. The cut-off amount of EUR 10 million was agreed by all institutions in 2006 and is already in force in the current DCI.

Amendment 7

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) In financing decisions the description of each action, specifying its objectives, main activities, expected results, prospective budget and timetable and performance monitoring arrangements should be further approved in accordance with the procedures provided for in Regulation (EU) No 182/2011. *deleted*

Justification

The text proposed by the Commission risks creating confusion between the programming level and the implementation level.

Amendment 8**Proposal for a regulation****Recital 6***Text proposed by the Commission*

(6) For the implementation of financial instruments, when the management of the operation is entrusted to a financial intermediary, the Commission decision should cover in particular provisions concerning risk-sharing, the remuneration of the intermediary responsible for implementation, the use and re-use of the funds and the possible profits.

Amendment

(6) For the implementation of financial instruments, when the management of the operation is entrusted to a financial intermediary, the Commission decision should cover in particular provisions concerning risk-sharing, **transparency**, the remuneration of the intermediary responsible for implementation, the use and re-use of the funds and the possible profits.

Amendment 9**Proposal for a regulation****Recital 8***Text proposed by the Commission*

(8) While financing needs of the Union's external assistance are increasing, the economic and budgetary situation of the Union limits the resources available for such assistance. The Commission must therefore seek the most efficient use of available resources, in particular by using financial instruments that have a leverage effect. Such leverage effect is increased by allowing funds invested and generated by the financial instruments to be used and re-

Amendment

(8) While financing needs of the Union's external assistance are increasing, the economic and budgetary situation of the Union limits the resources available for such assistance. The Commission must therefore seek the most efficient use of available resources, in particular by using financial instruments that have a leverage effect. Such leverage effect is increased by allowing funds invested and generated by the financial instruments to be used and re-used. ***This leverage effect must be clearly***

used.

demonstrated particularly in the case of instruments that are counted towards Official Development Assistance or Climate Finance. In such cases the funds leveraged must clearly contribute to poverty eradication and be aligned to aid effectiveness principles, or, in the case of climate finance, conform to UNFCCC priority areas and commitments.

Or. en

Justification

This amendment is necessary in order to ensure that the rules for untying aid under the DCI instrument respect the OECD-DAC guidelines, to the application of which the EU has committed itself.

Amendment 10

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) In line with the commitments of the European Union at the 3rd and 4th High Level Fora on Aid Effectiveness (Accra 2008, and Busan 2011), and the OECD-DAC recommendation on untying ODA to the Least Developed Countries and Heavily Indebted Poor Countries, the Commission should untie European Union aid to the maximum extent and increase the de facto opening, and the transparency of its procurement and award procedures, in particular where innovative financing mechanisms are being used.

Or. en

Amendment 11

Proposal for a regulation Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) The Union's action on the international scene should be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principle of equality, and solidarity and respect for the principles of the United Nations Charter and International Law.

Or. en

Amendment 12

Proposal for a regulation Recital 8 c (new)

Text proposed by the Commission

Amendment

(8c) The Union's external action under these instruments should have an impact reflected in concrete changes in partner countries. Whenever possible, this impact should be monitored and assessed on the basis of pre-defined, clear, transparent and measurable indicators, directly related to the objectives of each instrument and taking into account the Union's obligations under Article 208 TFEU.

Or. en

Amendment 13

Proposal for a regulation Recital 8 d (new)

Text proposed by the Commission

Amendment

(8d) With a view to optimising the impact of the Instruments and to ensure that the most efficient use of available resources is sought after, the biennial report of the Commission should among other things, assess, in the light of the relevant Treaty provisions, the complementarity, synergies and mutual reinforcement between all the instruments financed under the relevant heading of the budget.

Or. en

Amendment 14

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) In order to ensure the visibility of the Union's assistance towards the citizens of the beneficiary countries and those of the Union, proper and targeted communication and information should be carried out via national, regional and local media, or by other adequate means, whenever relevant. Minimal and appropriate requirements in this regard should be defined by the Commission in close cooperation with beneficiaries, and the respect of these requirements should be monitored.

Or. en

Amendment 15

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation establishes the rules and conditions for providing the Union's financial assistance to actions, ***including action programmes and other measures***, under the following Instruments: the Development Cooperation Instrument ('DCI'), the European Instrument for Democracy and Human Rights ('EIDHR'), the European Neighbourhood Instrument ('ENI'), the Instrument for Stability ('IfS'), the Instrument for Nuclear Safety Cooperation ('INSC'), the Instrument for Pre-accession Assistance ('IPA') and the Partnership Instrument ('PI'), hereinafter also referred to jointly as 'the Instruments' and singly as 'the applicable Instrument'.

Amendment

1. This Regulation establishes the rules and conditions for providing the Union's financial assistance to actions under the following Instruments: the Development Cooperation Instrument ('DCI'), the European Instrument for Democracy and Human Rights ('EIDHR'), the European Neighbourhood Instrument ('ENI'), the Instrument for Stability ('IfS'), the Instrument for Nuclear Safety Cooperation ('INSC'), the Instrument for Pre-accession Assistance ('IPA') and the Partnership Instrument ('PI'), hereinafter also referred to jointly as 'the Instruments' and singly as 'the applicable Instrument'.

Or. en

Justification

As the names and the content of the different documents (both at programming and at implementation level) vary from instrument to instrument, it is preferable not to specify the names given to a particular type of documents.

Amendment 16

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

2. The Commission shall ensure that actions are implemented in accordance with the objectives of the applicable Instrument, and in conformity with an effective protection of the financial interests of the Union. The financial assistance provided on the basis of the Instruments shall be consistent with the

Amendment

2. The Commission shall ensure that actions are implemented in accordance with the objectives of ***and the specific provisions and derogations contained in*** the applicable Instrument, and in conformity with an effective protection of the financial interests of the Union. The financial assistance provided on the basis

rules and procedures laid down in the Financial Regulation, which provides the basic financial and legal framework for their implementation.

of the Instruments shall be consistent with the rules and procedures laid down in the Financial Regulation, which provides the basic financial and legal framework for their implementation.

Or. en

Justification

Common rules should be applied wherever possible but with enough flexibility for each Instrument to be guided by its own specific rules in function of its specificity and own objectives.

Amendment 17

**Proposal for a regulation
Article 1 – paragraph 3**

Text proposed by the Commission

Amendment

3. In applying this Regulation, the Commission shall, where possible and appropriate in light of the nature of the action, favour the use of the most flexible procedures in order to ensure an effective and efficient implementation.

deleted

Or. en

Justification

This paragraph is superfluous because it is self-evident: the Commission must follow the procedures set out either in this Regulation, in the applicable Instrument, or in the Financial Regulation. It is evident that, where a choice is possible, the Commission should choose the most flexible procedure. Maintaining this clause would create the impression that the legislator agrees to endow the Commission with additional discretionary powers.

Amendment 18

**Proposal for a regulation
Article 1 – paragraph 3a (new)**

Text proposed by the Commission

Amendment

3a. All types of activities and financing methods mentioned in this Regulation for

the financing and implementation of programmes, projects, individual or special measures, support measures, and any other form of financial expenditure under the DCI shall fulfil the requirements established in that Instrument concerning their eligibility as ODA according to the eligibility criteria established by the OECD-DAC.

Or. en

Justification

Because the DCI is subject to a set of rules agreed by the international donor community in the framework of the OECD-DAC, which constitute the “acquis” in the field of development cooperation to which the EU should abide by virtue of Article 208 TFEU and which does not necessarily apply to the other instruments covered by this Regulation, it is necessary to include this specification.

Amendment 19

Proposal for a regulation
Article 2 – title

Text proposed by the Commission

Adoption of **action programmes**, individual measures and special measures

Amendment

Adoption of **strategic programming documents, implementation documents**, individual measures and special measures

Or. en

Justification

On the one hand it is necessary to mention the strategic programming documents as a separate category, on the other hand it is preferable, wherever possible, to mention the type of documents rather than their individual names, as the names and the content of the different documents (both at programming and implementation level) may vary from instrument to instrument.

Amendment 20

Proposal for a regulation

Article 2 – paragraph (-1) – subparagraph 1 (new)

Text proposed by the Commission

Amendment

-1. The documents that define for each financial programme the objectives, priorities, expected results and financial allocations in broad terms, are strategic programming documents.

Or. en

Justification

A distinction must be made between programming decisions, which are partly political in nature – and therefore the co-legislators should be involved in their establishment – and purely implementing decisions. For the important programming decisions, wording has been taken from the Conference of Presidents' decision of 9.9.2010. The provision that these elements must be given for each financial programme appears in the title of the decision of the Conference of Presidents.

Amendment 21

Proposal for a regulation

Article 2 – paragraph (-1) – subparagraph 2 (new)

Text proposed by the Commission

Amendment

Without prejudice to the provisions of the individual Instruments, strategic programming documents shall be adopted in accordance with Article 290 of the Treaty on the Functioning of the European Union. The specific conditions for the exercise of delegation shall be defined in the individual Instruments. An urgency procedure clause shall be provided for in the delegation of power.

Or. en

Justification

The clause: "Without prejudice to ..." introduces a provision to make it possible for the

individual Instruments to bring strategic programming decisions under co-decision as an alternative to the delegated acts procedure (in conformity with the recent decision of the Conference of Presidents).

Amendment 22

Proposal for a regulation

Article 2 – paragraph (-1) – subparagraph 3 (new)

Text proposed by the Commission

Amendment

The duration of the delegation shall be defined in each Instrument, but shall not exceed the date set for the mid-term review of the Instruments, as defined in Article 16 of this Regulation.

Or. en

Justification

Limiting the duration of the delegation to the mid-term review of the Instruments obliges the Commission to submit a legislative proposal at mid-term for extending the duration of the delegated acts, thereby making it possible for the Parliament and the Council to introduce, if necessary, amendments in order to improve the functioning of the Instruments.

Amendment 23

Proposal for a regulation

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. The Commission shall adopt annual or ***multi-annual*** action programmes, ***where required*** based on the ***indicative*** programming documents ***referred to in the applicable Instrument.***

1. The Commission shall adopt annual or ***biennial*** action programmes ***which shall be*** based on ***and in line with*** the ***strategic programming*** documents ***defined in art. 2 (-1a).***

Or. en

Justification

All implementing measures must per definition be based on, and be in line with the programming decisions.

Amendment 24

Proposal for a regulation

Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Exceptionally, ***in particular*** where an action programme has not yet been adopted, the Commission may, on the basis of the ***indicative*** programming documents, adopt individual measures under the same rules and procedures as for action programmes.

Amendment

Exceptionally, where an action programme has not yet been adopted, the Commission may, on the basis of ***and in line with the strategic*** programming documents ***defined in art. 2 (-1a)***, adopt individual measures under the same rules and procedures as for action programmes.

Or. en

Justification

All implementing measures must per definition be based on, and be in line with the programming decisions.

Amendment 25

Proposal for a regulation

Article 2 – paragraph 1 – subparagraph 3

Text proposed by the Commission

In the event of unforeseen and duly justified ***needs, circumstances or commitments***, the Commission may adopt special measures not provided for in the ***indicative*** programming documents. Special measures may also be used to ease the transition from emergency ***aid*** to long-term ***development*** operations, ***including measures to better prepare people to deal with recurring crises***.

Amendment

Under special unforeseen and duly justified circumstances, the Commission may adopt special measures not provided for in the ***strategic*** programming documents. Special measures may also be used to ease the transition from emergency to long-term operations.

Or. en

Justification

1. *"Unforeseen commitments" is a contradictio in terminis: a commitment is a promise for the future, and therefore should be programmable.*

2. *The transition from humanitarian aid to development aid (LRRD) is specific to the Humanitarian Aid Instrument (not currently under revision) and – mainly - the DCI, and should therefore be dealt with in the DCI (and other relevant instruments) and the humanitarian aid instrument, not in the CIR. The word “development” should therefore be deleted.*
3. *Disaster preparedness in areas with permanent or recurring disaster risks should not be done under special measures, but under the normal financial programming – it is foreseeable and programmable.*

Amendment 26

Proposal for a regulation

Article 2 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Action programmes **and** individual measures provided for in paragraph 1 for which the Union's financial assistance exceeds EUR 10 million **and special measures for which the Union's financial assistance exceeds EUR 30 million** shall be adopted in accordance with the examination procedure referred to in Article 15(3).

Amendment

2. Action programmes, individual measures, **special measures and support measures** provided for in paragraph 1 **of this article and in Article 3**, for which the Union's financial assistance exceeds EUR 10 million shall be adopted in accordance with the examination procedure referred to in Article 15(3).

Or. en

Justification

The principle should be that important programming decisions should be taken under the delegated acts procedure, implementing decisions involving normal foreseeable measures in line with the programming decisions or involving important sums of money under the examination procedure, and – in order to avoid micromanagement – decisions involving less important sums under the advisory procedure, while flexibility should be foreseen for the Commission to take swiftly urgent emergency decisions. The cut-off sum of EUR 10 million was agreed by all institutions in 2006 and is already in force in the current DCI.

Amendment 27

Proposal for a regulation

Article 2 – paragraph 2 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

Individual measures, special measures and support measures for which the Union's financial assistance does not exceed EUR 10 million shall be adopted in accordance with the advisory procedure referred to in Article 15(2).

Or. en

Justification

The principle should be that important programming decisions should be taken under the delegated acts procedure, implementing decisions involving normal foreseeable measures in line with the programming decisions or involving important sums of money under the examination procedure, and – in order to avoid micromanagement – decisions involving less important sums under the advisory procedure, while flexibility should be foreseen for the Commission to take swiftly urgent emergency decisions. The cut-off sum of EUR 10 million was agreed by all institutions in 2006 and is already in force in the current DCI.

Amendment 28

Proposal for a regulation

Article 2 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

That procedure shall not be required for action programmes and measures below the above-mentioned thresholds, ***and for non-substantial amendments thereto.*** Non-substantial amendments are technical adjustments such as extending the implementation period, reassigning funds within the forecast budget, or increasing or reducing the size of the budget by less than 20 % of the initial budget, provided these amendments do not substantially affect the objectives of the initial action programme or measure. In such case, action programmes and measures and non-

That procedure shall not be required for ***non-substantial amendments to*** action programmes and measures below the above-mentioned threshold. Non-substantial amendments are technical adjustments such as extending the implementation period, reassigning funds within the forecast budget, or increasing or reducing the size of the budget by less than 20 % of the initial budget, provided these amendments do not substantially affect the objectives of the initial action programme or measure. In such case, action programmes and measures and non-

substantial amendments thereto shall be communicated to the European Parliament and to the Council within **one month** of their adoption.

substantial amendments thereto shall be communicated to the European Parliament and to the Council within **two weeks** of their adoption.

Or. en

Justification

In return for maximum flexibility for the Commission, the co-legislators should receive quick notification when this paragraph is activated (also for the purpose of being able to communicate in an informed way with their respective constituencies).

Amendment 29

Proposal for a regulation Article 2 – paragraph 3

Text proposed by the Commission

3. On duly justified imperative grounds of urgency, such as crises, **post crisis and fragility situations** or threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may adopt immediately applicable implementing acts, including amendments to existing action programmes and measures, in accordance with the procedure referred to in Article 15(4).

Amendment

3. On duly justified imperative grounds of urgency, such as **military, institutional or humanitarian** crises, or threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may adopt immediately applicable implementing acts, including amendments to existing action programmes and measures, in accordance with the procedure referred to in Article 15(4). **The Commission shall notify the European Parliament of its decision within 24 hours of the adoption of the implementing act.**

Or. en

Justification

- 1. There is a risk that, if the field of application of this paragraph is not unambiguously defined, it may supersede previous measures and “non-emergency” implementing acts without any possibility for EP to redress the situation if needed, certainly if - as the Commission proposes - the application of these measures can extend until the expiry date of the Regulation.*
- 2. "Crises" is too vague and needs to be defined.*
- 3. "Post crisis and fragility situations" are rather permanent situations and not urgencies or emergencies.*

4. *In return for maximum flexibility for the Commission, the co-legislators should receive immediate notification when this paragraph is activated (also for the purpose of communicating in an informed way with their constituencies).*

Amendment 30

Proposal for a regulation Article 2 – paragraph 4

Text proposed by the Commission

4. Appropriate environmental screening, including for climate change and biodiversity impacts, shall be undertaken at project level including where applicable environmental impact assessment (EIA) for environmentally sensitive projects, in particular for **major** new infrastructure. Where relevant, strategic environmental assessments (SEA) shall be used in the implementation of sectoral programmes. The involvement of interested stakeholders in environmental assessments and public access to the results shall be ensured.

Amendment

4. Appropriate environmental screening, including for climate change and biodiversity impacts, shall be undertaken at project level including where applicable environmental impact assessment (EIA) for environmentally sensitive projects, in particular for new infrastructure. Where relevant, strategic environmental assessments (SEA) shall be used in the implementation of sectoral programmes. The involvement of interested stakeholders in environmental assessments and public access to the results shall be ensured.
Development impact assessments shall also be undertaken at project level to ensure that Policy Coherence for Development and aid effectiveness principles are effectively incorporated into project design and selection.

Or. en

Justification

1. *It is advisable to delete the word "major", as this introduced a degree of arbitrariness in the Regulation.*
2. *Article 208 TFEU makes it compulsory for the Union to take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.*

Amendment 31

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

1. Union financing may cover expenditure for the implementation of the Instruments and for the achievement of their objectives, **including** administrative support associated with the preparation, follow-up, monitoring, audit and evaluation activities directly necessary for such implementation, as well as expenditure at Union delegations on the administrative support needed to manage operations financed under the Instruments.

Amendment

1. Union financing may cover expenditure for the implementation of the Instruments and for the achievement of their objectives; **this concerns** administrative support associated with the preparation, follow-up, monitoring, audit and evaluation activities directly necessary for such implementation, as well as expenditure at Union delegations on the administrative support needed to manage operations financed under the Instruments.

Or. en

Justification

While allowing the Commission the necessary flexibility to adapt implementation to changing circumstances, it is necessary to avoid giving it completely arbitrary discretionary powers. Therefore, expressions as “inter alia”, “including”, etc. should be avoided as much as possible.

Amendment 32

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. Provided that the activities listed in points (a), (b) and (c) are related to the **general** objectives of the applicable Instrument implemented through the action, Union financing may cover

Amendment

2. Provided that the activities listed in points (a), (b) and (c) are related to the **specific** objectives of the applicable Instrument implemented through the action, Union financing may cover

Or. en

Justification

In order to ensure that funds are used as much as possible for achieving the specific objectives of each Instrument, the number of “secondary” activities financed under each

Instrument should be limited. Limiting their eligibility to support for the specific objectives of the Instrument will help achieving this.

Amendment 33

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Support measures may be financed outside the scope of indicative programming documents. Where applicable, the Commission shall adopt support measures in accordance with the advisory procedure referred to in Article 15(2). **deleted**

Or. en

Justification

This clause would give the Commission too much discretionary powers and would hollow out all rules and requirements for financing.

Amendment 34

Proposal for a regulation

Article 4 – paragraph 1 - subparagraph 1 - introductory wording

Text proposed by the Commission

Amendment

1. The Union's financial assistance may be provided, ***inter alia***, through the following types of financing envisaged by the Financial Regulation:

1. The Union's financial assistance may be provided through the following types of financing envisaged by the Financial Regulation:

Or. en

Justification

While allowing the Commission the necessary flexibility to adapt implementation to changing circumstances, it is necessary to avoid giving it completely arbitrary discretionary powers. Therefore, expressions as “inter alia”, “including”, etc. should be avoided as much as possible.

Amendment 35

Proposal for a regulation

Article 4 – paragraph 1 - point d

Text proposed by the Commission

(d) contributions to trust funds set up by the Commission;

Amendment

(d) contributions to trust funds set up by the Commission, ***provided that contributions from a specific Instrument will only be used for the achievement of the objectives of that Instrument;***

Or. en

Amendment 36

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Union's financial assistance may also be provided, in accordance with the Financial Regulation, through contributions to international, regional or national funds, such as those established or managed by the European Investment Bank, international organisations, Member States or by partner countries and regions, for attracting joint financing from a number of donors, or to funds set up by one or more donors for the purpose of the joint implementation of projects.

Amendment

The Union's financial assistance may also be provided, in accordance with the Financial Regulation, through contributions to international, regional or national funds, such as those established or managed by the European Investment Bank, international organisations, Member States or by partner countries and regions, for attracting joint financing from a number of donors, or to funds set up by one or more donors for the purpose of the joint implementation of projects. ***The participation of non-EU International financial institutions to EU financial investment instruments, such as blending mechanisms, shall be conditional on their acceptance of EU standards and policies, and on the opening up of access for EU financial institutions to the shareholders' funds of these institutions.***

Or. en

Amendment 37

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2a (new)

Text proposed by the Commission

Amendment

Financial assistance in the form of budget support, as provided for in point (c) above, and in accordance with Article [...] of the Financial Regulation, shall only be granted a) on the basis of measurable objectives and performance indicators, b) if the partner country's management of public spending is sufficiently transparent, reliable and effective, and c) if it has put in place properly formulated sectoral or macroeconomic policies positively assessed by its principal donors, including, where relevant, the international financial institutions. Before approving any financing decision, the Commission shall seek guarantees from partner country governments that they will promote or will allow the Union to promote and support efforts to develop national parliamentary control and audit capacities, including public access to information.

Or. en

Justification

The provisions: "... if the country's management ...", already present in the current DCI (Art. 25) and in the current ENPI, should figure as a conditionality in the clause on budget support, as is the case in those current instruments. The provisions are also in line with paragraph 14 of the Conclusions of the Foreign Affairs Council of 14 May on "The Future Approach to EU Budget Support to Third Countries" and also figure in the BUDG draft report on the revision of the financial regulation, but not in the current financial regulation. Therefore they should be included in the CIR.

Amendment 38

Proposal for a regulation

Article 4 – paragraph 1 – alinea 2 b (new)

Text proposed by the Commission

Amendment

The provision of the Union's financial assistance, through all the types of financing defined in paragraph 1, shall be conditional upon commitments of the beneficiary parties to fulfil requirements that will ensure the visibility of the Union's assistance. Such minimal and appropriate requirements shall be defined by the Commission in close cooperation with beneficiaries, and the respect of these requirements shall be monitored.

Or. en

Amendment 39

Proposal for a regulation

Article 4 – paragraph 4

Text proposed by the Commission

Amendment

4. The types of financing referred to in paragraph 1 and in Article 6(1), and the methods of implementation referred to in paragraph 3, shall be chosen on the basis of their ability to achieve the specific objectives of the actions, taking into account, *inter alia*, the costs of controls, the administrative burden, and the expected risk of non-compliance. For grants, this shall include a consideration of the use of lump sums, flat rates and scales of unit costs.

4. The types of financing referred to in paragraph 1 and in Article 6(1), and the methods of implementation referred to in paragraph 3, shall be chosen on the basis of their ability to achieve the specific objectives of the actions, taking into account the costs of controls, the administrative burden, and the expected risk of non-compliance. For grants, this shall include a consideration of the use of lump sums, flat rates and scales of unit costs.

Or. en

Justification

While allowing the Commission the necessary flexibility to adapt implementation to changing

circumstances, it is necessary to avoid giving it completely arbitrary discretionary powers. Therefore, expressions as “inter alia”, “including”, etc. should be avoided as much as possible.

Amendment 40

Proposal for a regulation Article 4 – paragraph 6

Text proposed by the Commission

Amendment

6. While having recourse to a type of financing referred to in paragraph 1 or Article 6(1), cooperation between the Union and its partners may take the form, ***inter alia***, of

6. While having recourse to a type of financing referred to in paragraph 1 or Article 6(1), cooperation between the Union and its partners may take the form of

Or. en

Justification

While allowing the Commission the necessary flexibility to adapt implementation to changing circumstances, it is necessary to avoid giving it completely arbitrary discretionary powers. Therefore, expressions as “inter alia”, “including”, etc. should be avoided as much as possible.

Amendment 41

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. All supplies and goods purchased under a procurement contract, or in accordance with a grant agreement, financed under this Regulation shall originate from an eligible country. However, they may originate from any country when the use of the competitive negotiated procedure is allowed. For the purposes of this Regulation, the term ‘origin’ is defined in the relevant Union legislation on rules of origin for customs purposes.

4. All supplies and goods, ***including the goods, works and services covered by the OECD-DAC Good Procurement Practices***, purchased under a procurement contract, or in accordance with a grant agreement, financed under this Regulation shall originate from an eligible country. ***The use of country procurement systems should be the default option when a country included in the DAC List of ODA Recipients of the OECD is the recipient of said grant.*** However, they may originate from any country when the use of the competitive negotiated procedure is

allowed. For the purposes of this Regulation, the term ‘origin’ is defined in the relevant Union legislation on rules of origin for customs purposes.

Or. en

Justification

To bring the rules on procurement and award of contracts in line with the OECD-DAC recommendation on untying ODA to the Least Developed Countries and Heavily Indebted Poor Countries of 2001 and 2008.

Amendment 42

Proposal for a regulation Article 8 – paragraph 6

Text proposed by the Commission

6. Where the Financial Regulation provides for discretion in the choice of the contractor, priority shall be given **where appropriate** to local and regional procurement.

Amendment

6. Where the Financial Regulation provides for discretion in the choice of the contractor, priority shall be given to local and regional procurement.

Or. en

Justification

To bring the rules on procurement and award of contracts in line with the OECD-DAC recommendation on untying ODA to the Least Developed Countries and Heavily Indebted Poor Countries of 2001 and 2008.

Amendment 43

Proposal for a regulation Article 8 – paragraph 7

Text proposed by the Commission

7. **By way of derogation from all other rules**, eligibility as defined in this Title may be restricted with regard to the nationality, localisation or nature of applicants, where required by the nature and **the** objectives of the action and as

Amendment

7. **In exceptional and duly justified cases**, eligibility as defined in this Title may be restricted with regard to the nationality, localisation or nature of applicants, where required by the **specific** nature and objectives of the action and as necessary

necessary for its effective implementation.
Such restrictions may apply in particular to the participation in awarding procedures in the case of cross-border cooperation actions.

for its effective implementation.

Or. en

Justification

To bring the rules on procurement and award of contracts in line with the OECD-DAC recommendation on untying ODA to the Least Developed Countries and Heavily Indebted Poor Countries of 2001 and 2008, derogations should be exceptional and as infrequent as possible.

Amendment 44

Proposal for a regulation

Article 9 – paragraph 1 - point c

Text proposed by the Commission

(c) developing countries and territories, as ***defined as defined by*** the Development Assistance Committee of the Organisation for Economic Cooperation and Development ('OECD-DAC'), ***which are not members of the G-20 group, ,*** and overseas countries and territories covered by Council Decision [2001/822/EC of 27 November 2001];

Amendment

(c) developing countries and territories, as ***included in the DAC list of ODA Recipients published by the*** Development Assistance Committee of the Organisation for Economic Cooperation and Development ('OECD-DAC'), and overseas countries and territories covered by Council Decision [2001/822/EC of 27 November 2001];

Or. en

Justification

Excluding developing country G20 members would be incompatible with the DAC Recommendation on Untying and the DAC definition of untying, which requires procurement to be open to all OECD countries and substantially all developing countries (where the word "substantially" is there essentially to permit the exclusion of certain countries under a UN embargo). This would make EU ODA to the LDCs/HIPCs tied, and would imply that the EU is derogating unilaterally from earlier agreements made in the multilateral framework of the OECD-DAC of which the Commission is a full member. It would also not be compatible with Accra and Busan commitments, especially the latter, made only recently in a "Global Partnership for Development".

Amendment 45

Proposal for a regulation

Article 9 – paragraph 1 - point d

Text proposed by the Commission

Amendment

(d) developing countries as defined by OECD-DAC, which are member of the G-20 group, and other countries and territories, when they are beneficiaries of the action financed by the Union under the instruments covered by this Article; **deleted**

Or. en

Justification

Excluding developing country G20 members would be incompatible with the DAC Recommendation on Untying and the DAC definition of untying, which requires procurement to be open to all OECD countries and substantially all developing countries (where the word "substantially" is there essentially to permit the exclusion of certain countries under a UN embargo). This would make EU ODA to the LDCs/HIPCs tied, and would imply that the EU is derogating unilaterally from earlier agreements made in the multilateral framework of the OECD-DAC of which the Commission is a full member. It would also not be compatible with Accra and Busan commitments, especially the latter, made only recently in a "Global Partnership for Development".

Amendment 46

Proposal for a regulation

Article 9 – paragraph 1 - point f

Text proposed by the Commission

Amendment

*(f) a Member State of the OECD-DAC, in the case of contracts implemented in a Least Developed Country, as **defined by** the OECD-DAC.*

*(f) a Member State of the OECD, in the case of contracts implemented in a Least Developed Country **or a Highly Indebted Poor Country (HIPC)**, as **included in the DAC list of ODA Recipients published by** the OECD-DAC.*

Or. en

Justification

To bring the rules on procurement and award of contracts in line with the DAC

recommendation on untying ODA to the LDCs and HIPCs of 2001 and 2008: to be consistent with the recommendation, this provision must cover member States of the OECD (not OECD-DAC), as the OECD-DAC definition of untied aid includes the eligibility of all OECD members (and not only DAC ones: not all OECD members are DAC members). To be consistent with the recommendation, the provisions should also cover the case of contracts implemented in a HIPC.

Amendment 47

Proposal for a regulation

Article 9 – paragraph 2 - point a

Text proposed by the Commission

(a) countries having traditional economic, trade or geographical links with neighbouring beneficiary countries, or

Amendment

(a) countries having traditional economic, trade or geographical links with neighbouring beneficiary countries **or regions**, or

Or. en

Amendment 48

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

1. The Commission shall regularly monitor and review its actions, and evaluate the results of the implementation of sectoral policies and actions, and the effectiveness of programming, where appropriate 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.

Amendment

1. The Commission shall regularly monitor and review its actions, and evaluate the results of the implementation of sectoral policies and actions, and the effectiveness of programming, where appropriate 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. ***These evaluations shall be carried out on the basis of pre-defined, clear, transparent and measurable indicators. Proposals by the European Parliament or the Council for independent external evaluations will be taken into due account.***

Justification

The sentence: “Proposals by the European Parliament...” is already included in the current DCI (Article 33: “Evaluation”)

Amendment 49**Proposal for a regulation
Article 12 – paragraph 2***Text proposed by the Commission*

2. The Commission shall send its evaluation reports to the European Parliament and to the Council **for information**. Member States may request to discuss specific evaluations in the Committees referred to in Article 15. The results shall feed back into programme design and resource allocation.

Amendment

2. The Commission shall send its evaluation reports to the European Parliament and to the Council. **The European Parliament and** Member States may request to discuss specific evaluations in the Committees referred to in Article 15. The results shall feed back into programme design and resource allocation.

Justification

Even if the EP is not a member of the management committees, it should be entitled to refer evaluations back to these committees.

Amendment 50**Proposal for a regulation
Article 12 – paragraph 3***Text proposed by the Commission*

3. The Commission shall associate **to an appropriate extent** all relevant stakeholders in the evaluation phase of the Union assistance provided under this Regulation.

Amendment

3. The Commission shall associate all relevant stakeholders, **including non-State actors and local authorities**, in the evaluation phase of the Union assistance provided under this Regulation.

Justification

The inclusion of Non-State Actors and Local Authorities is already agreed in the current DCI (Article 33: "Evaluation").

Amendment 51

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

2. The **biennial** report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of **the** relevant partners, and the implementation of budgetary commitments and of payments appropriations. It shall assess the results of the Union's financial assistance, **using as far as possible, specific and measurable indicators of its role in meeting the objectives of the Instruments.**

Amendment

2. The **biennial** report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of **all** relevant partners, and the implementation of budgetary commitments and of payments appropriations. It shall assess, **with a view of achieving the objectives of each Instrument, the complementarity and synergies between the instruments financed under the EU budget, and assess the results of the Union's financial assistance, on the basis of pre-defined, clear, transparent and measurable indicators. For the DCI and for all actions related to Climate Change, the report shall also clearly demonstrate the leverage effect of funds leveraged through the private sector, as well as their contribution to poverty eradication and their alignment to aid effectiveness principles, or, in the case of climate finance, their conformity to UNFCCC priority areas and commitments.**

Or. en

Amendment 52

Proposal for a regulation Article 14

Text proposed by the Commission

The funding allocated in the context of the Instruments shall be subject to an annual tracking system based on the OECD methodology ('Rio markers'), integrated into the existing methodology for performance management of EU programmes, to quantify the expenditure related to climate action and biodiversity at the level of the action programmes, individual and special measures referred to in Article 2(1), and recorded within evaluations and *biennial* reports. An annual estimate of the overall spending related to climate action and biodiversity shall be made on the basis of the adopted *indicative* programming documents.

Amendment

The funding allocated in the context of the Instruments shall be subject to an annual tracking system based on the OECD methodology ('Rio markers'), integrated into the existing methodology for performance management of EU programmes, to quantify the expenditure related to climate action and biodiversity at the level of the action programmes, individual and special measures referred to in Article 2(1), and recorded within evaluations and *biennial* reports. An annual estimate of the overall spending related to climate action and biodiversity, *as well as a separate calculation of the funds provided and to be provided to developing countries for climate change mitigation and adaption in accordance with the Union's international commitments*, shall be made on the basis of the adopted *strategic* programming documents.

Or. en

Justification

The disaggregated data on climate change funding are necessary to enable the co-legislators to check on the EU's commitment, made in 2009 at the COP 15 Climate Change conference in Copenhagen, to provide "new and additional resources" for climate change adaptation and mitigation in developing countries.

Amendment 53

Proposal for a regulation Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. An observer from the European

Investment Bank shall take part in the committee's proceedings with regard to questions concerning the Bank.

Or. en

Justification

This provision is included in most of the current financing instruments.

Amendment 54

Proposal for a regulation

Article 15 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The adopted decision shall remain in force for the duration of the adopted or modified document, action programme or measure.

Amendment

The adopted decision shall remain in force for ***a period to be indicated in*** the adopted or modified document, action programme or measure, ***but not exceeding six months from its adoption.***

Or. en

Justification

This procedure is proposed by the Commission only for "immediately applicable implementing acts, including amendments to existing action programmes and measures" in cases of emergency. The procedure is the examination procedure, but with an exception which gives Commission the power to "adopt an implementing act which shall apply immediately, without its prior submission to a committee, and shall remain in force for a period not exceeding 6 months unless the basic act provides otherwise". Extending this period to the duration of the document (which could be the duration of the Regulation itself) would amount to giving the Commission a blank check, without any possibility for the European Parliament to alter or revoke the decision and with hardly any possibility of exercising scrutiny over it.

Amendment 55

Proposal for a regulation

Article 16 – title

Text proposed by the Commission

Review and evaluation of the Instruments

Amendment

Mid-term review and evaluation of the

Amendment 56**Proposal for a regulation
Article 16 – paragraph 1***Text proposed by the Commission*

1. No later than 31 **December** 2017, a report **shall be established by the Commission** on the achievement of the objectives **of each of the Instruments** by means of result and impact indicators measuring the efficiency of the use of resources and the **European** added value of the Instruments, in view of a decision on the renewal, modification or suspension of the types of actions implemented under the Instruments. The report shall, in addition, address the scope for simplification, internal and external coherence, the continued relevance of all objectives, **as well as the contribution of the measures to the Union priorities for smart, sustainable and inclusive growth**. It shall take into account any findings and conclusions on the long-term impact of the Instruments.

Amendment

1. No later than 31 **March** 2017, **the Commission shall submit to the European Parliament and the Council** a report **evaluating the implementation of each Instrument and of this Regulation in the first three years, and on** the achievement of the objectives by means of result and impact indicators measuring the efficiency of the use of resources and the added value of the Instruments, in view of a decision on the renewal, modification or suspension of the types of actions implemented under the Instruments. The report shall, in addition, address the scope for simplification, internal and external coherence, **including Policy Coherence for Development, as well as** the continued relevance of all objectives. It shall take into account any findings and conclusions on the long-term impact of the Instruments.

Or. en

Justification

1. *The sentence “the Commission shall submit ...” is already present in the current DCI (Article 40: “Review”)*
2. *What should be assessed is not only “European added value”, but also added value towards the achievement of the objectives of the instruments themselves.*
3. *The sentence “contribution to the EU priorities for smart, sustainable and inclusive growth” should be deleted – it is not relevant for all instruments in the area of external action (e.g. DCI, IfS, EIDHR) and should therefore be included in the specific Instruments, where relevant.*
4. *The obligation for Policy Coherence for Development of all EU actions is contained in*

Article 208 TFEU.

Amendment 57

**Proposal for a regulation
Article 17 – subparagraph 3**

Text proposed by the Commission

It shall apply from 1 January 2014.

Amendment

It shall apply from 1 January 2014 **to 31
December 2020**

Or. en

Justification

An expiry date for the new Regulations should be included. This should coincide with the duration of the new MFF.