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DRAFT REPORT

on Regulation (EC)1905/2006 establishing a financing instrument for development cooperation: lessons learned and perspectives for the future (2009/2149(INI))

Committee on Development

Rapporteur: Gay Mitchell

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Regulation (EC)1905/2006 establishing a financing instrument for development cooperation: lessons learned and perspectives for the future (2009/2149(INI))

The European Parliament,

- having regard to Articles 208 to 211, and 290 and 291 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation¹ (Development Cooperation Instrument - DCI),
- having regard to the Millennium Declaration of 8 September 2000, setting out the Millennium Development Goals (MDGs) as criteria established collectively by the international community for the elimination of poverty,
- having regard to the Joint Statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: ‘The European Consensus’ signed on 20 December 2005²,
- having regard to the Joint Declaration on Democratic Scrutiny and Coherence in External Actions and the Commission Declaration on the Democratic Scrutiny and Coherence in External Actions attached to the Interinstitutional Agreement on budgetary discipline and sound financial management³,
- having regard to the declarations by the Commission entered in the minutes of the Council formally adopting the common position of the Council on the adoption of DCI⁴, and in particular the ‘Commission Declaration concerning Article 5 DCI’,
- having regard to letter D (2007) 303749 of 5 March 2007 from the then Chair of the Committee on Development, Josep Borrell Fontelles, to then Commissioners Ferrero-Waldner and Michel⁵,

¹ OJ L 378, 27.12.2006, p. 41.

² OJ C 46, 24.2.2006, p. 1.

³ OJ C 139, 14.6.2006, p. 1.

⁴ Annexed to the Communication of 24.10.2006 from the Commission to the European Parliament pursuant to the second subparagraph of Article 251(2) of the EC Treaty concerning the common position of the Council on the adoption of a Regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation (COM(2006)0628).

⁵ Registered as comitology document No CMT-2007-1709 - annex registered as comitology document No CMT-2007-1709-2.

- having regard to letter A (2007) 5238 of 26 March 2007 from then Commissioner Ferrero-Waldner to the then Chair of the Committee on Development, Josep Borrell Fontelles¹,
- having regard to the ‘Reporting Directives for the Creditor Reporting System’ of the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC)²,
- having regard to the Judgment of the Court of 23 October 2007, Case C-403/05 (European Parliament v Commission of the European Communities) Action for annulment of Commission decision approving a project relating to border security in the Philippines (Decision adopted on the basis of Regulation (EEC) No 443/92),
- having regard to the Regulation (EC) No 1337/2008 of the European Parliament and of the Council of 16 December 2008 establishing a facility for rapid response to soaring food prices in developing countries³,
- having regard to the Presidency Conclusions of the European Council of 29/30 October 2009 (Doc. 15265/09),
- having regard to the Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (EEAS),⁴
- having regard to the Communication from the Commission of 19 October 2010 on the ‘EU Budget Review’ (COM(2010)0700),
- having regard to the Green Paper from the Commission of 19 October 2010 on ‘The future of EU budget support to third countries’ (COM(2010)0586),
- having regard to the Green Paper from the Commission of 10 November 2010 on ‘EU development policy in support of inclusive growth and sustainable development: Increasing the impact of EU development policy’ (COM(2010)0629),
- having regard to its resolution of 15 February 2007 on the draft Commission decisions establishing Country Strategy Papers and indicative programmes for Malaysia, Brazil and Pakistan⁵,
- having regard to its resolution of 7 June 2007 on the draft Commission decision establishing Regional Strategy Papers and Regional Indicative Programmes for Mercosur and Latin America⁶,
- having regard to its resolution of 21 June 2007 on the draft Commission decision establishing a Regional Strategy Document 2007-2013 and a Multiannual Indicative

¹ Registered as comitology document No CMT-2007-1709-3.

² DCD/DAC (2007)39/final of 4.9.2007, 145 pages.

³ OJ L 354 of 31.12.2008, p. 62.

⁴ OJ L 201 of 3.8.2010, p.30.

⁵ OJ C 287 E, 29.11.2007, p. 507.

⁶ OJ C 125 E, 22.5.2008, p. 213.

Programme for Asia¹,

- having regard to its resolution of 12 July 2007 on the democratic scrutiny of the implementation of the financing instrument for development cooperation (DCI)²,
 - having regard to its resolution of 25 October 2007 on the draft Commission decision establishing a Special Measure 2007 for Iraq³,
 - having regard to its resolution of 9 July 2008 on the draft Commission decisions establishing Annual Action Programmes for Brazil for 2008 and for Argentina for 2008⁴,
 - having regard to its resolution of 6 May 2009 on the draft Commission decision establishing the 2009 Annual Action Programme for Non-State Actors and Local Authorities in Development (Part II: Targeted Projects)⁵,
 - having regard to its legislative resolution of 3 February 2011 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 Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation⁶,
 - having regard to its legislative resolution of 3 February 2011 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 1905/2006 establishing a financing instrument for development cooperation⁷,
 - having regard to its legislative resolution of 3 February 2011 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 territories⁸,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Development (A7-0000/2011),
- A. whereas, according to Article 2(1) of the DCI, the overarching objective of cooperation under that instrument is ‘the eradication of poverty in partner countries’, including ‘pursuit of the Millennium Development Goals’ (MDGs),
- B. whereas, according to Article 2(4) of the DCI, all the measures under geographical programmes and 90% of the expenditure foreseen under thematic programmes must fulfil the criteria for Official Development Assistance (ODA) established by the OECD/DAC,

¹ OJ C 146 E, 12.6.2008, p. 337.

² OJ C 175 E, 10.7.2008, p. 595.

³ OJ C 263 E, 16.10.2008, p. 624.

⁴ OJ C 294E, 3.12.2009, p.19.

⁵ OJ C 212E, 5.8.2010, p.8.

⁶ Texts adopted P7_TA(2011)0032.

⁷ Texts adopted P7_TA(2011)0030.

⁸ Texts adopted P7_TA(2011)0033.

- C. whereas according to Commission calculations, only 0.2 % of the commitments financed under the DCI thematic programmes between 2007 and 2009 do not fulfil the ODA criteria,
- D. whereas, in accordance with Council Decision 1999/468/EC (the 'Comitology decision')¹, Parliament launched in 2007 a process of democratic scrutiny of the implementation of Regulation (EC) No 1905/2006, including all Country Strategy Papers (CSPs), Regional Strategy Papers (RSPs), Thematic Strategy Papers (TSPs), Multiannual Indicative Programmes, and most of the Annual Action Programmes (AAPs),
- E. whereas the Commission undertook to endeavour that 20 % of its allocated assistance under country programmes covered by the DCI would be dedicated, by 2009, to basic and secondary education and basic health, through project, programme or budget support linked to these sectors, taking an average across all geographical areas,
- F. whereas the EU has committed itself to the collective target of spending 0.7% of its Gross National Income (GNI) on ODA by 2015,

Lessons learned

1. Welcomes the Commission's willingness to honour its commitment to enter into a regular dialogue with Parliament on the implementation of the DCI; acknowledges the efforts made to keep Parliament's DCI working groups informed about the way its comments on strategy papers were taken into account in the drawing up of AAPs;
2. Notes that, in particular during the mid-term review, the dialogue between the Commission and the European Parliament as part of the democratic scrutiny exercise has helped to avoid the adoption of strategy papers containing ultra vires provisions and to bring them in line with the requirements of the DCI regulation and in particular the ODA eligibility principles;
3. Regrets that several of Parliament's concerns, raised during the democratic scrutiny process, in particular regarding a lack of poverty and MDG focus have not been sufficiently taken into account by the European Commission;
4. Regrets that in response to Parliament's resolutions signalling a non-respect for the requirement of the ODA eligibility criterion laid out in Article 2(4) of the regulation, the European Commission only amended or withdrew 3 out of 11 draft implementing measures concerned;
5. Requests the Commission to indicate, in order of priority and with their respective weight, the criteria it has used for the allocation of funds between the DCI countries and regions and to the different sectors of activity within each geographical and thematic programme;
6. Draws particular attention to the ODA-eligibility requirement for the geographical programmes under the DCI and urges the Commission and the EEAS to always ensure full compliance with this legal obligation;

¹ OJ L 184, 17.7.1999, p.23.

Perspectives for the future: principles

7. Stresses that the EU continues to need a specific financing instrument for development cooperation, which targets exclusively developing countries and explicitly pursues the objectives defined in Article 208 TFEU; insists that the annual figures for ODA in the next Multiannual Financial Framework (MFF) period should increase in real terms to reach the collective target of spending 0.7% of GNI on ODA by 2015;
8. Underlines that full compliance with ODA criteria, and in particular with the OECD/DAC requirement that 'each transaction is administered with the promotion of the economic development and welfare of developing countries as its main objective'¹, must remain a condition for all measures to be funded under geographical programmes under the new instrument; calls for a more stringent ODA quota for thematic programmes than under the current DCI;
9. Stresses that achievement of the MDGs must remain the prime objective of the instrument for the period until 2015; urges the Commission to ensure that EU aid continues to be coherent with the internationally agreed objectives and targets for development which will be adopted by the United Nations and other competent international organisations for the post-2015 period;
10. Acknowledges the need for non-ODA cooperation with many developing countries for the provision of global public goods; believes that this kind of cooperation should be regulated and funds be channelled via one or more separate instruments, so as to ensure transparency and to protect the distinctive nature of development cooperation as an autonomous policy domain in the area of external relations; insists, in line with the commitment made at the European Council of 29-30 October 2009, that financing for climate change should not undermine or jeopardize the fight against poverty and continued progress towards the MDGs, and that the scarce ODA funds available for poverty reduction should not be diverted for non-development purposes in developing countries;
11. Agrees that a differentiated approach to the diverse group of developing countries is needed, and that traditional financial aid may become less relevant for emerging countries; considers that aid for emerging countries, while promoting sustainable economic growth, should still focus on reinforcing the partner country's fiscal policy and promoting mobilisation of domestic revenue which should lead to the reduction of poverty and of aid dependency;12. Stresses, therefore, that the future development cooperation instrument should continue to cover all countries of the geographical regions covered by it according to the OECD/DAC list of developing countries;
13. Calls for closer coordination between the Commission and Members States, so as to achieve the Treaty prescription of Article 210 TFEU, and supports the development of joint European strategy papers;
14. Reiterates its call for the European Development Fund (EDF) to be brought into the EU

¹ See OECD/DAC: 'Reporting Directives for the Creditor Reporting System'

budget, which would simplify procedures and increase the effectiveness and efficiency of EC aid; insists that this should not lead to any reduction in the global amounts of funding at EU level for the DCI and for the EDF;

15. Underlines the need for a regular and structured dialogue between the Commission and the EEAS, and non-state actors (NSAs) and local authorities (LAs) on the programming, implementation and evaluation of strategy papers;
16. Stresses the need for flexibility provisions which allow the EU to respond to changes in terms of needs and priorities; suggests an examination of the EDF model of limited country envelopes of non-programmed aid as a possible model for the future development cooperation instrument; stresses, however, that funds used in a more flexible manner must pursue genuine development objectives;
17. Considers that the new development cooperation instrument should provide a basis for targeted and more flexible aid to situations of fragility; believes that the new financial architecture should help to ensure proper linkage of relief, rehabilitation and development (LRRD) through flexibility and complementarity of the funding mechanisms;

Perspectives for the future: geographical and thematic programmes

18. Calls for a of 20 % benchmark for spending under geographical programmes to be allocated to basic social services as defined by the United Nations in the Millennium Development Goals (indicator 8.2 for goal 8: 'Develop a global partnership for development');
19. Insists on strict eligibility criteria for budget support; insists that the Commission must refrain from using this modality in countries where transparency in public spending cannot be assured, that budget support must always be accompanied by actions to develop the receiving country's parliamentary control and audit capacities and to increase transparency and public access to information, and that civil society should be involved in its monitoring;
20. Notes that all thematic programmes under the DCI have proven their relevance, but calls for some refocusing in the light of new challenges, such as the global financial and economic crisis, the global food crisis, climate change and special needs of fragile states and states in transition;
21. Insists that any future thematic programme on migration must be fully aligned with the EU's development objectives and that the core funding under this programme must fulfil the ODA eligibility criteria;
22. Stresses that a new thematic programme on 'Investing in People' must put a focus on the achievement of those MDGs which are most off track and in countries with critical MDG indicators;
23. Reiterates that Article 290 TFEU is fully applicable to the DCI, and therefore recalls that the application of the delegated acts procedure is compulsory for those decisions which

fulfil the criteria of Article 290 TFEU, such as the establishment of the general objectives, priorities, expected results and financial allocations;

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24. Instructs its President to forward this resolution to the Council, the Commission and the Governments and Parliaments of the Member States.

EXPLANATORY STATEMENT

Introduction

2011 is a strategic moment to draw the lessons from four years of operation of Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation (DCI). The Commission has announced that it will present its proposals for the post-2013 Multiannual Financial Framework (MFF) before the summer recess and the legislative proposals for the financing instruments for external action later this year. The purpose of this report is to establish at an early stage Parliament's position with regard to a new financing instrument for EU development cooperation, based on the lessons drawn from our scrutiny of the implementation of the DCI.

Lessons learned

Following the entry into force of the DCI, the European Parliament's Committee on Development established four (now five) permanent working groups to exercise Parliament's right of scrutiny over all major programming documents proposed by the Commission. The process led to a sustained and structured in-depth dialogue between DEVE and the Commission, and constituted a useful learning process for both institutions: we learned about the difficulties faced by the Commission during programming, and your rapporteur hopes that the Commission also became more aware of the practical meaning of Parliament's democratic scrutiny and our working methods.

While the dialogue was constructive, and the Commission made great efforts to inform the working groups about the follow-up to Parliament's recommendations, regrettably it did not induce the Commission to heed many of our Committee's requests nor the resolutions adopted by Parliament¹; Parliament's position was only sporadically reflected in the draft implementing measures the Commission submitted to the DCI Management Committee.

We were also disappointed to see that the substantive scrutiny work carried out by Parliament did not receive any echo from the representatives of the Member States in the DCI Committee. Contrary to Parliament, Member States did not seem to focus on checking the compliance of Commission proposals with the legal provisions of the DCI (in particular the ODA-compatibility requirement).

The main problem which emerged from our dialogue seems to be a difficulty in understanding or accepting the specific role of development cooperation in the context of the EU's external action. This is understandable: our main partner in the Commission was DG RELEX, which had as its main mandate the promotion of EU interests in the rest of the world. A mental adaptation is required to understand that development cooperation is the one policy area of external action (besides humanitarian aid) which has *not* been designed to serve EU interests, but to defend the interests of the most marginalized and vulnerable populations of this planet:

¹ The committee produced five resolutions adopted by plenary under Rule 81 of Parliament's Rules of Procedure, signalling to the Commission that in 11 draft measures the Commission had exceeded its implementing powers. Only in three cases, however, did the Commission adapt or withdraw its draft decision.

Poverty alleviation, sustainable human, social and economic development - in short: the right to a decent life for all.

The difficulty in recognising the different and specific mandate of our development policy and translating it into concrete programmes and measures was apparent in some of the programming documents issued by the Commission under the DCI. They therefore lack the clear focus on poverty eradication in the context of sustainable development and the Millennium Development Goals (MDGs) which is the primary and overarching objective of the DCI.

Parliament clearly recognises the importance for the EU of certain activities in developing countries (including cultural, citizen-to-citizen contacts, political dialogue, etc.) which do not fulfil the OECD/DAC criteria for Official Development Assistance (ODA). But these must not be financed from the EU's development budget. Parliament therefore called for an instrument which would enable the EU to finance such actions from sources other than the DCI. While repeating its position that the so-called "ICI+" instrument must not be financed by a transfer of funds from the DCI, Parliament will continue to engage constructively in the ongoing negotiations on this regulation.

Your rapporteur acknowledges that in particular during the mid-term review of the strategy papers in 2009/2010, the democratic scrutiny dialogue has helped to avoid the adoption of strategy papers containing *ultra vires* provisions. However, our scrutiny also confirmed that the risk of infusion of foreign policy interests, a lack of poverty and MDG focus and concerns regarding an adequate consultation of stakeholders continue to exist.

Perspectives for the future

In connection with the debate on the next MFF, the Commission indicated that it may reconsider the overall structure of the external financing instruments. Further simplification and adaptation to new challenges, such as climate change, as well as the proper place for the external dimension of the EU's internal policies, are important aspects that must be taken into consideration. At this early stage, your rapporteur will not make detailed suggestions on the architecture, but rather focus on the *key principles* which need to be reflected in the future EU development policy.

The very first of these key principles and the starting point of our reflections is that there is a need for a separate development cooperation instrument, which specifically and exclusively targets developing countries and pursues the objectives defined in Article 208 TFEU. For the sake of transparency, non-ODA cooperation with developing (including "emerging") countries should be channelled through a separate instrument.

An overhaul of the architecture, should also lead to the resolution of a decades-old anomaly: in order to ensure equal treatment for all developing countries and to enhance democratic accountability of all EU development policy, the EDF should be brought into the EU budget. This may not, however, lead to any reduction in real terms in the financing of either the DCI or the EDF (as compared to their present levels), nor of the aggregate amount of funds made

available at EU level for ODA.

Adequate Funding

The future instrument for supplying EU development aid must be adequately equipped in financial terms. The EU has committed itself to the collective target of spending 0.7 % of its GNI on ODA by 2015. For reaching this aim, the current level of European aid will have to significantly increase. Given the added value of Commission aid, and the Commission's new role in coordinating the Union's and the Member States' development policy (Art. 210 TFEU), the share of ODA channelled through the EU budget should remain at least stable.

The annual figures for the new development cooperation instrument in the next MFF period should significantly increase in real terms.

Reminding the Member States of their commitment at the European Council of 29-30 October 2009, Parliament insists that financing for climate change adaptation should "not undermine or jeopardize the fight against poverty and continued progress towards the Millennium Development Goals" and therefore must be additional to funds foreseen for the achievement of the specific DCI and EDF objectives.

Focus on poverty eradication and ODA criteria

The DCI is defined as a real development cooperation instrument, in particular through the provisions in Article 2(1) (defining eradication of poverty as the primary and overarching objective) and Article 2(4) (100% of funding under geographical programmes and 90% for thematic programmes must comply with the criteria for ODA).

In line with Article 208 TFEU, such provisions must feature in any future successor instrument to the DCI, and – as the experience of the DCI shows – may need to be formulated in even stricter terms. Thematic programmes will continue to include some measures which are not ODA-compatible, but clear quota will have to be defined.

Reaching the MDGs must remain the paramount objective of the future development cooperation instrument, given that the target of 2015 falls within the lifespan of the next development instrument. But even if all MDGs were fulfilled, poverty will remain a reality for many. For the period beyond 2015, we need to find a formula which ensures coherence with new international targets yet to be defined. The DCI benchmark of 20% spending on health and education (by 2009) has been an important reference point for Parliament, but its implementation has been difficult to monitor. In the future instrument, a similar benchmark must be upheld, but - for the sake of transparency and clarity – it should refer to the concept of "basic social services" as defined by the United Nations in MDG 8 (indicator 8.2), and require stringent reporting by the Commission.

The food price crisis has proved the need for flexible and fast reaction in order to respond to sudden changes in terms of needs and priorities. This might be reflected not only in the architecture for external financing, but also in the development cooperation instrument itself.

Geographic and thematic programmes

There is a good case for more differentiation in the approach to the diverse group of developing countries. The DCI may no longer be the most appropriate instrument for several middle income countries, in particular those which are profiling themselves as emerging donors. This should, however, not lead to unilateral decisions on the definition of "developing countries", which must continue to be - by international consensus - the prerogative of the OECD/DAC. Also the fact that a very sizeable proportion of the population of the new emerging donor countries continues to live in absolute poverty justifies - in your rapporteur's opinion - that the future instrument should continue to cover all countries on the DAC list falling within the geographical scope of the instrument.

All thematic programmes have proven to be relevant, but some refocusing in the light of new challenges (food crisis; climate change; special needs of fragile states) may be necessary.

The programme for non-state actors and local authorities has proven to be chronically underfinanced and over-solicited; this must be corrected in the future instrument. In addition, the results of the ongoing structured dialogue should be reflected in the definition of the role of non-state actors and the aid modalities.

Procedures for programming EU aid

Coordination and division of labour must be guiding principles of programming under the new development instrument. The idea of European strategy documents should be pursued as a matter of high priority. A special chapter on aid effectiveness, specifying the actions taken to this effect, should be included, as well as a donor and an MDG matrix, so as to provide transparency as regards the choice of Commission interventions.

The geographical programming is now the task of the EEAS, under the responsibility of the Commissioner for Development and in cooperation with DG DEVCO. Given the objectives and composition of the EEAS, and in the light of past experiences with the DCI, the risk that development objectives may be overtaken by foreign policy interests is real. It is therefore of the utmost importance that procedures and structures be established which protect development as an autonomous policy domain with its own specific objectives.

Bridging the democracy gap

Parliament must have the possibility to defend the specificity of the EU's development policy in the post-2013 development cooperation instrument, by scrutinising strategic programming decisions on an equal footing with the Council. In particular, decisions on the general objectives, the priority areas and expected results, as well as the allocation of funds, which fulfil the criteria of Art. 290 of the TFEU, must be taken by using the delegated acts procedure.