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Committee on Foreign Affairs

2009/0059(COD)

2.3.2010

OPINION

of the Committee on Foreign Affairs

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and the Council amending Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories

(COM(2009)0197 – C7-0101/2009 – 2009/0059(COD))

Rapporteur(*): Barbara Lochbihler

(*) Procedure with associated Committees - Rule 50 of the Rules of Procedure

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SHORT JUSTIFICATION

Introduction

Towards the end of the 6th legislature, the Committee on Foreign Affairs had called on the European Commission to create an additional instrument to cover activities with developing countries which do not fall under the scope of the Development Co-operation Instrument (DCI). Since the DCI is limited to activities characterised as Official Development Aid, there was a legal vacuum for activities with developing countries which are based on mutual interest such as cultural and academic exchanges, technology exchanges, political dialogue, media support, among others.

In order to avoid having a proliferation of external relations instruments, the Committee on Foreign Affairs had proposed that the existing Industrialised Countries Instrument (ICI) (Council Regulation (EC) No 1934/2006 be transformed into an "Instrument for Co-operation with third countries on non-ODA activities".

Legal base

The Commission came up with a proposal for an amending regulation (the "ICI+") (COM(2009)197 final), which was referred to the Committee on International Trade as the lead committee for historical reasons - the Committee had been the lead committee on the original ICI dossier. The Committee on Foreign Affairs requested associated committee status, pursuant to Rule 50 of Parliament's Rules of Procedure, on the basis that the new instrument would not merely constitute a way of rectifying an omission in the original instrument but also - and significantly - that it would now become a foreign policy instrument for relations between the EU and third countries in Asia, Latin America and the Middle East.

In its new proposal the Commission extends the geographical scope of the original 17 high income countries of the ICI to another 46 countries covered by the DCI Regulation and proposes to roughly double the reference amount for such co-operation from EUR 172 million to EUR 348 million for the 2010-2013 period.

On 1 December 2009 the Lisbon Treaty came into force and the legal basis applicable to the new instrument had to be amended. With the provisions of the new Treaty, the former Article 181a (now Article **212**) changes to only cover activities in relation to industrialised countries. Since with the reshaping of the ICI, over two thirds of the partner countries will be developing countries, two other legal bases were added: development cooperation (Article **208/9**) and commercial policy (Article **206/7**). In fact neither of the three legal bases fully corresponds to the type of activities which are supposed to be covered by this new instrument because with the coming into force of the Lisbon Treaty not only did the import of Article 212 change, but Article 208/9 was also overhauled. Poverty alleviation now becomes the "primary objective" of development cooperation. While "poverty alleviation" in the framework of "Official Development Aid" is clearly the main goal of the "big" DCI, the "small", reshaped ICI is supposed to cover non-ODA activities of common interest between Europe and the partner countries. The spirit of Article 208/9 is therefore only fulfilled when the DCI Instrument and the (re-shaped) ICI are viewed as two parts of a whole.

In the absence of any better solution, the legal services of all three institutions agreed to accept the triple legal base and the rapporteur suggests following the Commission's proposal.

Comitology

In the framework of the European Instrument for Democracy and Human Rights (EIDHR), the Development Co-operation Instrument (DCI) and the Instrument for Stability (IfS) the AFET and DEVE Committees have already taken the view that strategy papers and/or multiannual indicative programmes should be considered "delegated acts" under article 290. The INTA Committee is expected to adopt the same line on the reshaped ICI. This position is shared by Parliament's legal service and rejected - not surprisingly - by the legal services of the other two institutions. It would give Parliament the power to object to proposed draft multi-annual cooperation programmes (or their reviews) if deemed necessary. For the reshaped ICI we should join forces with the other instruments and demand "delegated act" status for the multi-annual programmes (especially considering that the ICI Regulation itself is very general). Joint trilogues will be organised with the aim of finding an agreement with the Commission and the Council regarding this specific horizontal issue, and this should strengthen our position and ability to negotiate.

Financial envelope

In addition to the EUR 172 million foreseen for the original ICI instrument, the Commission proposes adding EUR 176 million for the new countries (Annex II). Regrettably, these envelopes do not at all correspond to the proportions of the countries covered in the future regulation, with developing countries in Annex II representing two thirds of all countries and the high income countries correspondingly reduced to one third of the whole. We trust this will be addressed when the regulation is up for review.

The Commission proposes to transfer EUR 108,5 million of the EUR 176 million intended for Annex II countries from the DCI. The rapporteur shares the position of the INTA rapporteur and of DEVE that there should be no transfer of funding from the DCI.

Amendments

a) Title

In view of the changed policy outreach of the revised ICI instrument, the title has to be changed. In Amendment 4 the rapporteur proposes calling the new instrument "a financing instrument for co-operation with countries in the Middle East, Asia, the Americas and South Africa". The abbreviated version could then read: MAAS.

b) Extension of scope

The character of the instrument changes from a tool to essentially support better economic and commercial ties with certain high income countries to a foreign policy instrument, where the majority of cooperation partners are developing countries. The ratio is one third high

income and industrialised countries (Annex I in the proposed Regulation¹) to two thirds developing countries (Annex II in the proposed Regulation²). The range of activities should therefore include cultural and academic cooperation in addition to economic cooperation. From now on developing countries (Annex II) represent the majority of "partner countries", while the former list of industrialized and high income countries is reduced to less than one third of the whole. These new priorities should be clearly stated in the text and Amendments 5, 6, 7, 9, 10, 11, 12 suggest extending the scope of the regulation.

c) No overlap with the Development Cooperation Instrument

It is also important to make a clear distinction between the DCI, which should finance Official Development Assistance (ODA), and the revised Industrialised Countries Instrument MAAS (the Middle East, Asia, the Americas and South Africa) currently under examination, which should cover cooperation in mutual interest and be clearly non-ODA. Amendment 5 aims to ensure that there is no overlap.

d) "Delegated acts"

Amendments 3, 13, 15, 16, 17, 18 are related to the issue of "delegated acts" and are being introduced in similar form into all the other financial instruments which are up for review. Amendments 13, 15, 16 introduce a request that annual action programs should simultaneously be sent to Council and Parliament for information.

e) No operations having military or defence implications

Amendment 14 adapts the MAAS Instrument to the norms of the DCI to explicitly exclude the defence domain from the possible range of cooperation measures.

AMENDMENTS

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

¹ Australia, Bahrain, Brunei, Canada, Chinese Taipei (although there are no diplomatic or political relations with Chinese Taipei, intensive contacts do take place and should be continued in the areas of economy, trade, science and technology, standards and norms and on a number of other subjects), Hong-Kong, Japan, Republic of Korea, Kuwait, Macao, New Zealand, Oman, Qatar, Saudi Arabia, Singapore, United Arab Emirates, United States

² Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela, Afghanistan, Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Democratic People's Republic of Korea, Laos, Malaysia, Maldives, Mongolia, Myanmar/Burma, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, Viet Nam, Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, Uzbekistan, Iran, Iraq, Yemen, South Africa

Amendment 1

Proposal for a regulation – amending act

Article 1 - point 1 a (new)

Regulation (EC) No 1934/2006

Citation 1

Text proposed by the Commission

Amendment

(1a) The first citation is replaced by the following:

"Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 212, 207(2) and 209(1) thereof,"

Justification

Post-Lisbon legal base change and updating.

Amendment 2

Proposal for a regulation – amending act

Recital 5

Text proposed by the Commission

Amendment

(5) The objectives and provisions of Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories¹ are appropriate to pursue such enhanced cooperation with countries falling under Regulation (EC) No 1905/2006. For that purpose, it is necessary 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.

(5) The objectives and provisions of Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories¹, ***as amended below***, are appropriate to pursue such enhanced cooperation with countries falling under Regulation (EC) No 1905/2006. For that purpose, it is necessary 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.

Justification

The objectives and scope of the 2006 Regulation have changed considerably. We are no

longer even talking about the same instrument. Without a clear reference to the fact that the provisions are being amended, the above statement would not be correct.

Amendment 3

Proposal for a regulation – amending act Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The Commission should 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 those programmes supplement Regulation (EC) No 1934/2006 and are of general application.

Justification

Standard text on delegated acts.

Amendment 4

Proposal for a regulation – amending act Article 1 – point 1 Regulation (EC) No 1934/2006 Title

Text proposed by the Commission

Amendment

Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with ***industrialised and other high-income countries and territories, and with developing countries falling under (EC) Regulation No 1905/2006.***

Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with countries ***in the Middle East, Asia, the Americas and South Africa (MAAS)***

Justification

New title needed to cover broader scope of new Regulation.

Amendment 5

Proposal for a regulation – amending act

Article 1 – point 2

Regulation (EC) No 1934/2006

Article 1 – paragraph 1

Text proposed by the Commission

1. Community financing shall support economic, financial **and** technical **cooperation** and other forms of cooperation falling within its spheres of competence with industrialised and other high-income countries and territories **and with developing countries falling under Regulation (EC) No 1905/2006.**

Amendment

1. Community financing **under this Regulation** shall support economic, financial, technical, **cultural, academic** and other forms of cooperation falling within its spheres of competence, **with developing countries as listed in Annex II and** with industrialised and other high-income countries and territories **as listed in Annex I ("partner countries"). In principle, this Regulation shall serve to finance measures which do not fulfil the Official Development Assistance (ODA) criteria of the OECD.**

Justification

The changed instrument should also include cultural and academic cooperation. Developing countries will now form the majority of "partner countries"; the former list of industrialized and high income countries now constitutes less than one third of the whole. These new priorities should be clearly stated. A clear distinction is also needed between the DCI, which should finance ODA, and the newly revised Industrialised Countries Instrument MAAS (Middle East, Asia, the Americas and South Africa), which should cover cooperation in mutual interest and be clearly non-ODA.

Amendment 6

Proposal for a regulation – amending act

Article 1 – point 2

Regulation (EC) No 1934/2006

Article 1 – paragraph 2

Text proposed by the Commission

2. The primary objective of cooperation with **the countries and territories referred to in paragraph 1** 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

Amendment

2. The primary objective of cooperation with **partner** countries 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 **between** the Community **and**

relations *of* the Community *with these* countries and territories and promote dialogue while fostering Community's interests.

partner countries and territories and promote dialogue while fostering *mutual understanding and the* Community's interests.

Justification

Usage of "partner countries" is related to Amendment 5. The scope of the instrument changes from "fostering Community interests" to an instrument to provide for activities in the interest of both the European Union and the partner countries.

Amendment 7

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) No 1934/2006

Article 2 – paragraph 1

Text proposed by the Commission

1. The cooperation 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. *The cooperation also covers partners with which the Community has a strategic interest in promoting links.*

Amendment

1. The cooperation shall be aimed at engaging with *partner countries towards the achievement of the following goals:*

– *mitigating conflict and enhancing dialogue and rapprochement;*

– *sharing and promoting* similar political, economic and institutional structures and values;

– *increasing exchanges with* important bilateral partners and players in multilateral fora and in global governance.

Justification

Broadening of scope - the list is self-explanatory.

Amendment 8

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) No 1934/2006

Article 2 – paragraph 2

Text proposed by the Commission

2. For the purpose of this Regulation, industrialised and other high-income countries and territories shall comprise countries and territories listed in Annex I and developing countries shall comprise countries listed in Annex II. They are hereinafter referred to as "partner countries". However, in duly justified circumstances and in order to foster regional cooperation, the Commission may decide when adopting action programmes referred to in Article 6 that countries not listed in the Annexes are eligible, where the project or programme to be implemented is of regional or cross-border nature. Provisions may be made for this in the multiannual cooperation programmes referred to in Article 5. The Commission shall amend the lists in Annexes I and II following the regular OECD/DAC reviews of its list of developing countries, and shall inform the Council thereof.

Amendment

2. In duly justified circumstances and in order to foster regional cooperation, the Commission may decide when adopting action programmes *as* referred to in Article 6 that countries not listed in the Annexes are eligible, where the project or programme to be implemented is of *a* regional or cross-border nature. Provisions may be made for this in the multiannual cooperation programmes referred to in Article 5. The Commission shall amend the lists in Annexes I and II following the regular OECD/DAC reviews of its list of developing countries, and shall inform the Council thereof.

Justification

See Amendment 5.

Amendment 9

Proposal for a regulation – amending act

Article 1 – point 3 a (new)

Regulation (EC) No 1934/2006

Article 4 – point 1

Text proposed by the Commission

Amendment

(3a) In Article 4, point 1 is replaced by the following:

"(1) the promotion of cooperation, partnerships and joint undertakings between economic, academic, *cultural*, and scientific actors, *with particular emphasis on activities designed to avert climate change and on environmentally and socially sustainable, clean and locally adapted technologies in the Community and partner countries;*"

Justification

Cultural activities and environmentally-friendly activities are to be added to the scope of the instrument. (Changes to the areas set out in the original instrument are in italics).

Amendment 10

Proposal for a regulation – amending act

Article 1 – point 3 b (new)

Regulation (EC) No 1934/2006

Article 4 – point 2

Text proposed by the Commission

Amendment

(3b) In Article 4, point 2 is replaced by the following:

"2) the stimulation of bilateral trade, investment flows and economic partnerships, *with a special focus on SMEs;*"

Justification

In view of the changed range of partner countries the activities financed should have a clear added value for both sides. (Changes to the areas set out in the original instrument are in italics).

Amendment 11

Proposal for a regulation – amending act

Article 1 – point 3 c (new)

Regulation (EC) No 1934/2006

Article 4 – point 3

Text proposed by the Commission

Amendment

(3c) In Article 4, point 3 is replaced by the following:

"3) the promotion of dialogues between political, economic [...], social and cultural actors and other non-governmental organisations in relevant sectors in the Community and partner countries;"

Justification

"Cultural" cooperation should be added (changes to the areas set out in the original instrument are in italics).

Amendment 12

Proposal for a regulation – amending act

Article 1 – point 3 d (new)

Regulation (EC) No 1934/2006

Article 4 – point 5

Text proposed by the Commission

Amendment

(3d) In Article 4, point 5 is replaced by the following:

"5) the promotion of cooperative projects in areas such as research, science and technology, *sports and culture, renewable energy, transport [...], environmental matters – including climate change, customs [...], financial, legal and human rights* issues, and any other matter of mutual interest between the Community and the partner countries;"

Justification

Additional key areas for potential cooperation are added. (Changes to the areas set out in the original instrument are in italics).

Amendment 13

Proposal for a regulation – amending act

Article 1 – point 3 e (new)

Regulation (EC) No 1934/2006

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

(3e) Article 6(1) is replaced by the following:

"1. The Commission shall adopt annual action programmes based on the multiannual cooperation programmes referred to in Article 5 and shall notify them simultaneously to the European Parliament and to the Council."

Amendment 14

Proposal for a regulation – amending act

Article 1 – point 3 f (new)

Regulation (EC) No 1934/2006

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(3f) In Article 7 the following paragraph is added:

"1a. Community assistance under this Regulation shall not be used to finance the procurement of arms or ammunition or operations having military or defence implications."

Justification

For the sake of consistency with Article 2(5) of Regulation (EC) No 1905/2006.

Amendment 15

Proposal for a regulation – amending act

Article 1 – point 4 a (new)

Regulation (EC) No 1934/2006

Article 9 – paragraph 3

Text proposed by the Commission

Amendment

(4a) Article 9(3) is replaced by the following:

"3. The Commission shall adopt support measures not covered by the multi-annual *cooperation* programmes and shall notify them simultaneously to the European Parliament and to the Council."

Amendment 16

Proposal for a regulation – amending act

Article 1 – point 4 b (new)

Regulation (EC) No 1934/2006

Article 14 a (new)

Text proposed by the Commission

Amendment

(4b) The following Article is inserted:

"Article 14a

Exercise of the delegation

1. The power to adopt the delegated acts referred to in Article 5 shall be conferred on the Commission for the period of application of this Regulation.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 14b and 14c."

Justification

Standard text on delegated acts.

Amendment 17

Proposal for a regulation – amending act

Article 1 – point 4 c (new)

Regulation (EC) No 1934/2006

Article 14 b (new)

Text proposed by the Commission

Amendment

(4c) The following Article is inserted:

"Article 14b

Revocation of the delegation

1. The delegation of powers referred to in Article 5 may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission, specifying the delegated powers which could be subject to revocation.

3. The revocation decision shall state the reasons for the revocation and shall terminate the delegation of the powers specified in that decision. It shall take effect immediately or at such later date as may be specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union."

Justification

Standard text on delegated acts.

Amendment 18

Proposal for a regulation – amending act

Article 1 – point 4 d (new)

Regulation (EC) No 1934/2006

Article 14 c (new)

(4d) The following Article is inserted:

"Article 14c

Objections to delegated acts

- 1. The European Parliament or the Council may object to a delegated act within a period of three months from the date of notification thereof.***
- 2. If, upon the expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall enter into force on the date stated therein.***
- 3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for its objection to the delegated act."***

Justification

Standard text on delegated acts.

PROCEDURE

Title	Establishment of a financing instrument for cooperation with industrialised countries (amendment of Regulation (EC) No 1934/2006)			
References	COM(2009)0197 – C7-0101/2009 – 2009/0059(COD)			
Committee responsible	INTA			
Opinion by Date announced in plenary	AFET 14.9.2009			
Associated committee(s) - date announced in plenary	11.2.2010			
Rapporteur Date appointed	Barbara Lochbihler 16.9.2009			
Discussed in committee	29.9.2009	10.11.2009	3.12.2009	27.1.2010
	23.2.2010			
Date adopted	23.2.2010			
Result of final vote	+: -: 0:	57 1 2		
Members present for the final vote	Gabriele Albertini, Pino Arlacchi, Bastiaan Belder, Frieda Brepoels, Arnaud Danjean, Mário David, Michael Gahler, Marietta Giannakou, Andrzej Grzyb, Heidi Hautala, Richard Howitt, Anna Ibrisagic, Jelko Kacin, Ioannis Kasoulides, Tunne Kelam, Maria Eleni Koppa, Andrey Kovatchev, Wolfgang Kreissl-Dörfler, Eduard Kukan, Alexander Graf Lambsdorff, Vytautas Landsbergis, Krzysztof Lisek, Sabine Lösing, Mario Mauro, Kyriakos Mavronikolas, Willy Meyer, Francisco José Millán Mon, Alexander Mirsky, María Muñoz De Urquiza, Annemie Neyts-Uyttebroeck, Raimon Obiols, Kristiina Ojuland, Pier Antonio Panzeri, Ioan Mircea Pașcu, Vincent Peillon, Alojz Peterle, Cristian Dan Preda, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Saryusz-Wolski, Werner Schulz, Adrian Severin, Marek Siwiec, Ernst Strasser, Zoran Thaler, Johannes Cornelis van Baalen, Kristian Vigenin, Graham Watson			
Substitute(s) present for the final vote	Laima Liucija Andrikiienė, Charalampos Angourakis, Elena Băsescu, Malika Benarab-Attou, Marielle De Sarnez, Lorenzo Fontana, Roberto Gualtieri, Georgios Koumoutsakos, Barbara Lochbihler, Godelieve Quisthoudt-Rowohl, Luis Yáñez-Barnuevo García			
Substitute(s) under Rule 187(2) present for the final vote	Bas Eickhout			