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Opinion

Title

Proposal for a Regulation of the Council amending Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories (draft version of 20 February 2009)

Lead DG

DG RELEX

1) Impact Assessment Board Opinion

(A) Context

The report refers to the main proposal for a legislative amendment emerging from the mid-term review of the seven external action financial instruments under the current financial perspectives. This concludes that the current regulation for the Development Cooperation Instrument (DCI) unduly constrains the scope of the Commission's bilateral geographical cooperation with eligible countries by requiring all measures financed to fulfil the OECD/DAC criteria for Official Development Assistance (ODA). So far, ad hoc compromises between the Commission and the European Parliament have allowed the financing of some non-ODA actions. The mid-term review offers the opportunity to find a legislative solution for the remainder of the financial perspectives.

(B) Positive aspects

The report is proportionate, correctly focussing on legal, institutional and administrative issues in light of the problem being analysed. It provides an appropriate set of policy options and it remains well below the 30-page limit.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The criteria used for comparing the options should be revised and specified early in the report. The report should spell out the limited scope of this initiative in terms of its policy content, budgetary implications and time frame, and in this context describe the problems to be addressed more concretely, and link them to a more defined set of objectives. While the report

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appropriately focuses on the alternative legal amendments to finance non-ODA activities in DCI countries, it would also benefit from an examination of the advantages and disadvantages of different potential sources of financing without prejudging any future budgetary proposal. During the IAB meeting, DG RELEX stated its intention to take on board these recommendations.

(1) Provide a clearer comparison of options. The criteria used for the comparison should be explained upfront and used to structure more tightly the analysis of the individual options. Among the criteria used, the more standard concept of "effectiveness" should be used instead of the "policy purpose" criterion. The report should also breakdown the "simplicity" criteria into its sub-components (risk of overlap, administrative complexity etc.). Finally, greater coherence between the analysis of the options and the summary provided in the final table under §5 should be ensured, indicating clearly any identified drawback of the favourite option as regards some criteria (such as a loss in coherence).

(2) Better characterize the problems to be addressed, linking them to a more defined set of objectives and clearly spelling out the limited scope of the initiative. The report should better describe and substantiate the problems the initiative is trying to address such as: the DCI-specific constraints that ODA-eligibility imposes upon the Community's bilateral cooperation with certain emerging countries; the importance of ensuring continued financing for certain on-going non-ODA activities and the opportunity to establish a sound legal basis for some future activities that may well be justified in their own right, for instance in the energy and, where relevant, climate change fields. It should link the identified problems more directly to a well-specified set of general and specific objectives. In doing so, the report should stress that the current initiative does not prejudice any future proposal on external cooperation financial instruments under the next financial perspectives. It should underline the limited scope of the present initiative in terms of its policy content, budgetary implications and time frame.

(3) Examine the advantages and disadvantages of different sources of financing without prejudging any future budgetary proposal. The report appropriately focuses on the different legal amendments that would allow financing bilateral non-ODA activities in DCI countries. Since these will, however, need to be financed under the current financial perspectives, a list of the main options in terms of sources of financing could be included along with a description of the pros and cons of each alternative. This would not necessarily need to identify a preferred option and should not prejudice any future budgetary proposal. Similarly, an indicative table of the activities that could be financed on the basis of the amended regulations could be usefully added. These recommendations are particularly relevant should the Impact Assessment be intended to serve as an ex ante evaluation under the Financial Regulation.

(D) Procedure and presentation

No public consultation took place since the proposal does not represent a new policy initiative. However, the design of the options draws on several opinions expressed by the European Parliament.

Readability for the non-specialized expert would be improved by adding short annexes on: the DAC criteria for ODA-eligibility, the division of responsibilities across

Commission services and European Institutions for the relevant financing instrument, the content and administrative arrangements for the ICI operations mentioned in the discussion of option 3 (ETP, Gateway and EU centres). The text about the past reform of the financing instruments and relations with the European Parliament should be moved into an initial "context" section and reduced in length. The text of the executive summary should be revised according to the modifications in the main text resulting from the above recommendations.

2) IAB scrutiny process

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