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EUROPEAN COMMISSION

Brussels, 5.2.2010
COM(2010)12 final

2010/0004 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**concerning European Union financial contributions to the International Fund for
Ireland (2007-2010)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- Grounds for and objectives of the proposal

The European Union has provided financial contributions to the International Fund for Ireland (IFI) from 1989. For the period 2005 to 2006 EUR 15 million was committed from the Community budget for each of the years 2005 and 2006 in accordance with Council Regulation (EC) No 177/2005 of 24 January 2005 on Community financial contributions to the International Fund for Ireland¹. That Regulation has expired on 31 December 2006 and was replaced by Council Regulation (EC) No 1968/2006 of 21 December 2006 concerning Community financial contributions to the International Fund for Ireland (2007-2010)². The regulation was adopted, like all previous regulations, on the basis of Article 308 of the Treaty establishing the European Community.

The European Parliament considered that the regulation should have been adopted under Article 159§3 of the Treaty establishing the European Community (now Article 175 of the Treaty on the Functioning of the European Union) and launched an action for annulment³ before the Court of Justice. The Court has passed down its judgement on 3 September 2009 and ruled that both Articles 159§3 and 308 should be used as the legal basis and has therefore annulled Council Regulation (EC) No 1968/2006 and asked the institutions to adopt a replacement regulation with a dual legal basis.

In complying with the Court's ruling the European Commission is presenting a new proposal for a Regulation.

In comparison with the annulled regulation the proposal for a new regulation reflects in the recitals the dual legal basis. All articles remain the same but Article 12 provides for the retroactive application of Article 6 since in the annulled regulation the said article was providing for a closure strategy to be submitted to the Commission by June 2008. The closure strategy in question has indeed been submitted to the Commission and it has been approved.

- General Context

The International Fund for Ireland (IFI) was established in 1986 in order to contribute to the implementation of Article 10(a) of the Anglo-Irish Agreement of 15 November 1985 which provides that *"the two governments shall co-operate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, and shall consider the possibility of securing international support for this work"*.

The objectives of the IFI are "to promote economic and social advance and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland"⁴.

¹ OJ L 30, 03.02.2005, p. 1-3.

² OJ 2006 L409, p.86

³ Case C-166/07

⁴ Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland concerning the International Fund for Ireland, 18 September 1986 (last

Following early contributions from the United States and other countries, the European Union, recognising that the objectives of the IFI were a reflection of those pursued by itself, decided to give practical support to the initiative and it began contributing to the IFI in 1989. EU funding represented approximately 58 % of 2008 annual contributions to the Fund and 40 % of cumulative contributions to date. The Commission has been represented by an observer at all IFI Board meetings since the beginning in 1989.

The political background of the region has evolved over the years. In 1994, the main paramilitary groups announced cease-fires and in April 1998, the Belfast ("Good Friday") Agreement set a political settlement for a peace process, including the devolution of powers to a Northern Ireland Assembly and Executive Committee, which were set up at the end of 1999. However, there is still a significant level of security related incidents with sectarian motivation and psychological and physical division between the main communities is on the rise. Even though there has been considerable progress in the last decade the fact that devolution has been suspended on four occasions illustrates the threats and uncertainties surrounding the peace process in the region.

In this context, economic and social development in support of peace and reconciliation at grassroots level is a long term process.

The International Fund has acknowledged that the current level of international support cannot be maintained indefinitely and has decided not to seek financial contributions from the donors after 2010. In 2005 the Fund performed a review of its structures and priorities in order to redefine its mission in light of the new realities and adopted a strategic framework which has been guiding the Fund in the last phase of its activities. This strategy is entitled "Sharing this Space" and is a strategic framework for action for the period 2006 – 2010. During this period the Fund is targeting the areas of greatest need and seeks to ensure that its work is made sustainable in the longer term.

- Any existing provisions in this area

Not applicable

- Consistency with other policies

As an instrument towards this goal, the IFI complements the actions carried out by the EU Programmes for Peace and Reconciliation in Northern Ireland and the Border Region of Ireland ("PEACE I" 1995-1999, "PEACE II" 2000-2006 and "PEACE III" 2007 - 2013).

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- Consultations

Not applicable

- Collection and use of expertise

amended 10 October 2000) ; UK Treaty Series N°58 (1987) Cm 266 / Republic of Ireland N°1 (1986) Cmnd 9908.

In accordance with Council Regulation (EC) No. 177/2005⁵ the annulled Regulation had been prepared on the basis of the Report to the Budgetary Authority assessing the IFI activities⁶ which accompanied it. The Report assessed the activities of the Fund utilising Commission expertise in the analysis of information and data collected:

- from the continuous monitoring of the Fund by the Commission
- from projects visits and inspections by the Commission during IFI Board meetings
- by the management of the Fund and projects
- reports and studies produced by the Fund

The Report acknowledged the IFI's very valuable and positive actions in support of peace and reconciliation in the region, and thereby the fulfilment of its objectives. The report concluded that:

"the Commission believes that funding after 2006 should be provided on the basis of the observations made in this report, which could be reflected either in the future Council Regulation on the EC contribution to the IFI, or through other appropriate means of co-operation between the Commission and the IFI".

- **Impact Assessment**

Given the fact that this is a replacement regulation to comply with a Court's decision concerning the choice of legal basis and taking into account that no articles of the Regulation have been amended it was not deemed proportional to carry out an Impact Assessment.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Legal Basis**

Article 175 and Article 352 (1) of the Treaty on the Functioning of the European Union

- **Choice of Instruments**

The proposed instrument is a Regulation to replace the annulled Regulation as per the Court's judgment.

4. BUDGETARY IMPLICATION

The proposal provides for EU contributions of €15 million per year to the IFI for a period of 4 years from 2007 - 2010. The proposed new period will therefore end in 2010, which would coincide with the last year the Fund will be seeking financial contributions from the donors.

⁵ OJ L 30, 03.02.2005, p. 1-3.

⁶ COM (2006)563, 12.10.2006.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning European Union financial contributions to the International Fund for Ireland (2007-2010)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 175 and Article 352 (1) thereof,

Having regard to the proposal from the European Commission⁷,

Having regard to the opinion of the Committee of the Regions⁸,

Having regard to the opinion of the European Economic and Social Committee⁹,

After transmission of the proposal to the national Parliaments,

Acting in accordance with the procedures laid down in Article 294 and in Article 352 (1) of the Treaty,

Whereas:

- (1) The International Fund for Ireland (hereinafter “the Fund”) was established in 1986 by the Agreement of 18 September 1986 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland (hereinafter “the Agreement”) in order to promote economic and social advance, and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland, in implementation of one of the objectives specified by the Anglo-Irish Agreement of 15 November 1985.
- (2) The Union, recognising that the objectives of the Fund are a reflection of those pursued by itself, has provided financial contributions to the Fund from 1989. For the period 2005 to 2006 EUR 15 million was committed from the Community budget for each of the years 2005 and 2006 in accordance with Council Regulation (EC) No 177/2005 of 24 January 2005 on Community financial contributions to the International Fund for Ireland¹⁰. That Regulation expired on 31 December 2006.

⁷ OJ C [...]

⁸ OJ C [...]

⁹ OJ C [...]

¹⁰ OJ L 30, 3.2.2005, p. 1.

- (3) The assessments carried out in accordance with Article 5 of Regulation (EC) No 177/2005 have confirmed the need for further support for activities of the Fund, while continuing reinforcing synergy of objectives and co-ordination with Structural Funds interventions, in particular with the Special Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland (hereinafter “the PEACE programme”) set up in accordance with Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds¹¹.
- (4) The peace process in Northern Ireland requires a continuation of Union support to the Fund beyond 31 December 2006. In recognition of the special effort for the peace process, the PEACE programme has been allocated additional support from the Structural Funds for the period 2007 to 2013 pursuant to paragraph 22 of Annex II to Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999¹².
- (5) At its meeting in Brussels on 15 and 16 December 2005, the European Council called on the Commission to take the necessary steps with a view to continued Community support for the Fund as it enters the crucial final phase of its work up to 2010.
- (6) The main purpose of this Regulation is to support peace and reconciliation through a wider range of activities than those covered by the Structural Funds, and which extend beyond the scope of the Union policy on economic and social cohesion.
- (7) The Union contributions to the Fund should take the form of financial contributions for the years 2007, 2008, 2009 and 2010, thus terminating at the same time as the life of the Fund.
- (8) In allocating the Union contributions, the Fund should give priority to projects of a cross-border or cross-community nature, in such a way as to complement the activities funded by the PEACE programme for the period 2007 to 2010.
- (9) In accordance with the Agreement, all financial contributors to the Fund participate as observers at the meetings of the Board of the International Fund for Ireland.
- (10) It is vital to ensure proper co-ordination between the activities of the Fund and those financed under the Structural Funds provided for by Article 175 of the Treaty, in particular the PEACE programme.
- (11) A financial reference amount, within the meaning of Point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹³ should be inserted in this Regulation for the entire duration of the programme, without the powers of the budgetary authority as defined by the Treaty being affected thereby.
- (12) The amount of the Union contributions to the Fund should be EUR 15 million for each of the years 2007, 2008, 2009, and 2010, expressed in current values.

¹¹ OJ L 161, 26.6.1999, p. 1.

¹² OJ L 210, 31.7.2006, p. 25.

¹³ OJ C 139, 14.6.2006, p. 1.

- (13) The Fund strategy launched for the final phase of its activities (2006 - 2010) and entitled "Sharing this Space" focuses on four key areas: building foundations for reconciliation in the most marginalised communities, building bridges for contact between divided communities, moving towards a more integrated society and leaving a legacy. Consequently, the ultimate aim of the Fund and of this Regulation is to encourage inter-community reconciliation.
- (14) The Union support will contribute to reinforcing solidarity between the Member States and between their peoples.
- (15) Assistance from the Fund should be regarded as effective only in so far as it brings about sustainable economic and social improvement and is not used as a substitute for other public or private expenditure.
- (16) Council Regulation (EC) No 1968/2006 of 21 December 2006 concerning Community financial contributions to the International Fund for Ireland (2007 to 2010)¹⁴ established the financial reference amount for the implementation of the Fund for the period 2007 to 2010.
- (17) In its judgement of 3 September 2009 in Case C-166/07 (*European Parliament v Council and Commission*)¹⁵ the Court of Justice of the European Communities annulled Regulation (EC) No 1968/2006 as it was based only on Article 308 of the Treaty establishing the European Community, ruling that both the third paragraph of Article 159 of the Treaty establishing the European Community and Article 308 of the Treaty establishing the European Community were the appropriate legal basis. However, the Court also ruled that the effects of Regulation (EC) No 1968/2006 were maintained until the entry into force, within a reasonable period, of a new regulation adopted on an appropriate legal basis and that the annulment of Regulation (EC) No 1968/2006 must not affect the validity of payments made or of undertakings given under that Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

The financial reference amount for the implementation of the International Fund for Ireland (hereinafter "the Fund") for the period 2007-2010 shall be EUR 60 million.

Annual appropriations shall be authorised by the budgetary authority within the limit of the financial framework.

Article 2

The contributions shall be used by the Fund in accordance with the Agreement of 18 September 1986 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland (hereinafter "the Agreement").

¹⁴ OJ L 409, 30.12.2006, p. 86.

¹⁵ Not yet published.

In allocating the contributions the Fund shall give priority to projects of a cross-border or cross-community nature, in such a way as to complement the activities financed by the Structural Funds, and especially those of the PEACE programme operating in Northern Ireland and the Border Counties of Ireland (hereinafter “the PEACE Programme”).

The contributions shall be used in such a way as to bring about sustainable economic and social improvement in the areas concerned. It shall not be used as a substitute for other public and private expenditure.

Article 3

The Commission shall represent the Union as an observer at the meetings of the Board of the Fund.

The Fund shall be represented as an observer at the Monitoring Committee meetings of the PEACE programme, and of other Structural Funds interventions as appropriate.

Article 4

The Commission shall, in co-operation with the Board of the Fund, determine appropriate procedures to foster co-ordination at all levels between the Fund and the managing authorities and implementing bodies set up under the Structural Funds interventions concerned, in particular under the PEACE programme.

Article 5

The Commission shall, in co-operation with the Board of the Fund, determine appropriate publicity and information procedures in order to publicise the Union contributions to the projects financed by the Fund.

Article 6

By 30 June 2008 at the latest, the Fund shall submit to the Commission its strategy for the closure of the activities of the Fund, including:

- (a) an action plan with projected payments and a foreseen winding up date;
- (b) a de-commitment procedure;
- (c) the treatment of any residual amounts and interest received at the closure of the Fund.

Subsequent payments to the Fund are conditional on the Commission's approval of the closure strategy. If the strategy for closure is not submitted by 30 June 2008, payments to the Fund shall be interrupted until the strategy is received.

Article 7

1. The Commission shall administer the contributions.

Subject to paragraph 2 the annual contribution shall be paid in instalments as follows:

- (a) a first advance payment of 40% shall be made after the Commission has received an undertaking, signed by the Chairman of the Board of the Fund, to the effect that the Fund shall comply with the conditions for the grant of the contribution set out in this Regulation;
- (b) a second advance payment of 40% shall be made six months later;
- (c) a final payment of 20% shall be made after the Commission has received and accepted the Fund's annual activity report and audited accounts for the year in question.

2. Before paying out an instalment the Commission shall carry out an assessment of the Fund's financial needs on the basis of the Fund's cash balance at the time scheduled for each payment. If following that assessment, the Fund's financial needs do not justify payment of one of those instalments, the payment concerned shall be suspended. The Commission shall review that decision on the basis of new information provided by the Fund and shall continue payments as soon as they are considered justified.

Article 8

A contribution from the Fund may be allocated to an operation which receives or is due to receive financial assistance under a Structural Funds intervention, only if the sum of that financial assistance plus 40% of the contribution from the Fund does not exceed 75% of the operation's total eligible costs.

Article 9

A final report shall be submitted to the Commission six months before the winding up date foreseen in the strategy for closure referred in point (a) of the first paragraph of Article 6 or six months after the last Union payment, whichever happens first, and shall include all the necessary information that enables the Commission to evaluate the implementation of the assistance and the attainment of the objectives.

Article 10

The final year contribution shall be paid following the financial needs analysis referred to in Article 7(2) and provided the Fund's performance respects the closure strategy provided for in Article 6.

Article 11

The final date of eligibility of expenditure is 31 December 2013.

Article 12

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

Article 6 shall apply from 1 January 2007.

This Regulation shall expire on 31 December 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]

LEGISLATIVE FINANCIAL STATEMENT

Policy area: REGIO

Activity: Other regional actions

TITLE OF ACTION: UNION CONTRIBUTIONS TO THE INTERNATIONAL FUND FOR IRELAND (2007-2010)

1. BUDGET LINE(S) + HEADING(S)

13.03.12

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): €60 million for commitment

2.2. Period of application: 2007-2010

2.3. Overall multiannual estimate of expenditure:

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€million *(to three decimal places)*

	Year [n] 2007	[n+1] 2008	[n+2] 2009	[n+3] 2010	[n+4]	[n+5 and subs. Year]	Total
Commitments	15	15	15	15			60
Payments			15	15	15	15	60

(b) Technical and administrative assistance and support expenditure *(see point 6.1.2)*

Commitments							
Payments							

Subtotal a+b							
Commitments	15	15	15	15			60
Payments			15	15	15	15	60

(c) Overall financial impact of human resources and other administrative expenditure *(see points 7.2 and 7.3)*

Commitments/ payments	0,042	0,042	0,042	0,042			
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TOTAL a+b+c							
Commitments	15,042	15,042	15,042	15,042			60,168
Payments	0,042	0,042	15,042	15,042	15	15	60,168

2.4. Compatibility with financial programming and financial perspective

Proposal is compatible with existing financial programming.

2.5. Financial impact on revenue:

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non-comp	Diff	NO	NO	NO	1A

4. LEGAL BASIS

Articles 352 (1) and 175 of the Treaty

5. DESCRIPTION AND GROUNDS

5.1. Need for Union intervention

5.1.1. Objectives pursued

To encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland and to promote the economic and social advance of the two communities.

5.1.2. Grounds for the operation

The European Union, recognising that the objectives of the Fund are a reflection of those pursued by itself, has been providing financial contributions to the IFI in support of the peace process since 1989. To date the EU has provided €289 million to the Fund.

At its meeting in Brussels on 15 and 16 December 2005, the European Council called on the Commission to take the necessary steps with a view to continued EU support for the Fund as it enters the crucial final phase of its work up to 2010, the final year that the Fund will seek financial contributions from its donors.

Continuation of this contribution for another four years until the end of the life of the IFI illustrates the clear EU support for the peace process in Northern Ireland.

5.2. Action envisaged and budget intervention arrangements

- To encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland and to promote economic and social advance of the two communities.
- The Fund operates mainly in Northern Ireland and in the Border Region of Ireland; it targets designated disadvantaged areas.
- For a detailed analysis of Fund activities, see Commission report COM(2006) 563 of 12 October 2006.

5.3. Methods of implementation

Joint management with international organisations.

Subject to an assessment of the Fund's financial needs, the annual contribution shall normally be paid in instalments as follows: a first advance payment of 40% shall be made after the Commission has received an undertaking, signed by the Chairman of the Fund's Board complying with the Council Regulation; a second advance payment of 40% shall be made six months later and a final payment of 20% shall be made after the Commission has received and accepted the Fund's annual activity report and audited accounts for the year in question.

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

6.1.1. Financial intervention

Commitments (in €million to three decimal places)

Breakdown	[Year n] 2007	[n+1] 2008	[n+2] 2009	[n+3] 2010	[n+4]	[n+5 and subs. Years]	Total
Action 1	15	15	15	15			60
Action 2							
etc.							
TOTAL	15	15	15	15			60

6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)

Not applicable.

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)

Not applicable.

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A	0,2		0,2	<i>If necessary, a fuller description of the tasks may be annexed.</i>
	B	0,1		0,1	
	C				
Other human resources					
Total		0,3		0,3	

7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials	32400	0,3 * €108000
Temporary staff		
Other human resources (specify budget line)		
Total	32400	

The needs for human and administrative resources shall be covered within the allocation that can be granted to the managing DG in the framework of the annual allocation procedure in the light of budgetary constraints.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions	8000	€800 * 10 p.a. (5 missions of 2 days each on average)
A07030 – Meetings		
A07031 – Compulsory committees		
A07032 – Non-compulsory committees		
A07040 – Conferences		
A0705 – Studies and consultations	1600	€800 * 2 p.a.
Other expenditure (specify) Audit		
Information systems (A-5001/A-4300)		

Other expenditure - Part A (specify)		
Total	9600	

The amounts are total expenditure for twelve months.

I.	Annual total (7.2 + 7.3)	42000€
II.	Duration of action	4 years
III.	Total cost of action (I x II)	168000€

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

The Commission will monitor the Fund's activities through its continuing presence on the Board as an observer and receives the papers of the IFI Advisory Committee meetings. The Fund operations are moreover, controlled by DG REGIO audit and control services. The result indicators will be the number and value of projects approved by the IFI.

Every year the IFI presents to the Commission its annual accounts and activity report which must satisfy the Commission in order for the payments to the Fund to continue. Moreover, the payments to the Fund are also subject to an assessment of the Fund's financial needs to be carried out by the Commission on the basis of the Fund's cash balance at the time scheduled for each payment.

Given that the Fund is coming to the end of its life in 2010 it has been asked to submit to the Commission its strategy for the closure of the Fund's activities and subsequent payments to the Fund are conditional on the Commission's approval of the closure strategy. This Strategy has been approved by the Commission in September 2009. As part of the closure package, the Fund will submit all the necessary information that would enable the Commission to evaluate the implementation of the assistance and the attainment of the objectives.

8.2. Evaluation

For an evaluation of Fund activities, see Commission report COM(2006) 563 of 12 October 2006.

9. ANTI-FRAUD MEASURES

The Commission is represented on the Board of the Fund and the final annual contribution is only paid over after receipt and acceptance of the Fund's annual report and audited accounts. The Fund operations are moreover, controlled by DG REGIO audit and control services.