Regulation (EU) No 1338/2011 of the European Parliament and of the Council of 13 December 2011 amending Council Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories

REGULATION (EU) No 1338/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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amending Council Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories

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 Articles 207(2) and 209(1) thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure, in the light of the joint text approved by the Conciliation Committee on 31 October 2011[(1)],

Whereas:

(1) Since 2007 the Community has streamlined its geographical cooperation with developing countries in Asia, Central Asia and Latin America, and with Iraq, Iran, Yemen, and South Africa under Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation[(2)].

(2) The primary and overarching objective of Regulation (EC) No 1905/2006 is the eradication of poverty through the pursuit of the Millennium Development Goals. The scope of cooperation for the geographic programmes with developing countries, territories and regions established under that Regulation is furthermore limited materially to financing measures designed to fulfil the criteria for Official Development Assistance ('ODA criteria') established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development ('OECD/DAC').

(3) It is in the Union's interests to further deepen its relations with the developing countries concerned, which are important bilateral partners and players in multilateral forums and in global governance. The Union has a strategic interest in promoting diversified links with those countries, in particular in areas such as economic, commercial, academic, business and scientific exchanges. It therefore needs a financial instrument that allows the financing of such measures which, in principle, do not qualify as ODA under the ODA criteria but which are crucially important in terms of consolidating relations and which make an important contribution to promoting the progress of the developing countries concerned.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 1338/2011 of the European Parliament and of the Council. (See end of Document for details)*

(4) For that purpose, four preparatory actions were set out in the 2007 and 2008 budget procedures to initiate such enhanced cooperation in accordance with point (b) of Article 49(6) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[(3)]. Those four preparatory actions are: business and scientific exchanges with India; business and scientific exchanges with China; cooperation with middle-income group countries in Asia; and cooperation with middle-income group countries in Latin America. Under that Article the legislative procedure further to preparatory actions must be concluded before the end of the third financial year.

(5) The objectives and provisions of Council Regulation (EC) No 1934/2006[(4)] 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.

(6) Extending the geographical scope of Regulation (EC) No 1934/2006 brings the developing countries concerned within the scope of two different external action financial instruments. Care should be taken to ensure that those two financial instruments are kept strictly separate from each other. Measures which fulfil the ODA criteria will be financed under Regulation (EC) No 1905/2006, whereas Regulation (EC) No 1934/2006 will apply exclusively to measures which, in principle, do not fulfil those criteria. It is also necessary to ensure that the countries previously falling within the scope of Regulation (EC) No 1934/2006 — industrialised and other high-income countries and territories — are not placed at a disadvantage, particularly in financial terms, by the extension of that Regulation's geographical scope.

(7) Since the economic crisis has placed budgets under extreme strain throughout the Union and the proposed extension embraces countries which sometimes demonstrate a similar level of competitiveness to that of the Union and have attained an average standard of living which approaches that of some Member States, Union cooperation should take into consideration efforts made by the recipient countries to comply with the international agreements of the International Labour Organisation and to participate in the general objectives of greenhouse gas emissions reduction.

(8) The review of the implementation of the external action financial instruments has identified inconsistencies in the provisions that exclude costs relating to taxes, duties or other charges as ineligible. For the sake of consistency, it is proposed to bring those provisions into line with the other instruments.

(9) Regulation (EC) No 1934/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1934/2006

Regulation (EC) No 1934/2006 is hereby amended as follows:

(1) the title of the Regulation is replaced by the following:
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 Regulation (EC) No 1905/2006 of the European Parliament and of the Council, for activities other than official development assistance;

(2) Articles 1 to 4 are replaced by the following:

Article 1

Objective

1 For the purpose of this Regulation, "industrialised and other high-income countries and territories" shall comprise countries and territories listed in Annex I to this Regulation and "developing countries" shall comprise countries falling under Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation[(5)] and listed in Annex II to this Regulation. They are together hereinafter referred to as "partner countries".

Union financing under this Regulation shall support economic, financial, technical, cultural and academic cooperation with partner countries in the areas set out in Article 4, falling within its spheres of competence. This Regulation shall serve to finance measures which, in principle, do not fulfil the criteria for Official Development Assistance ("ODA criteria") established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development ("OECD/DAC").

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 and transparent environment for the development of relations between the Union and partner countries in accordance with the principles guiding the Union's external action as laid down in the Treaties. This refers amongst others to the promotion of democracy, respect for human rights and fundamental freedoms, the rule of law, as well as the promotion of decent work and good governance, and the preservation of the environment, in order to contribute to progress and sustainable development processes in partner countries.

Article 2

Scope

1 Cooperation shall be aimed at engaging with partner countries in order to enhance dialogue and rapprochement and to share and promote similar political, economic and institutional structures and values. The Union shall also aim at

increasing cooperation and exchanges with established or increasingly important bilateral partners and players in multilateral forums and in global governance. The cooperation also covers partners with which the Union has a strategic interest in promoting links and its values as laid down in the Treaties.

2 In duly justified circumstances and in order to ensure the coherence and effectiveness of Union financing and to foster regional cooperation, the Commission may decide when adopting annual action programmes referred to in Article 6 that countries not listed in the Annexes are eligible for measures financed under this Regulation, where the project or programme to be implemented is of a regional or cross-border nature. Provisions shall be made for this in the multiannual cooperation programmes referred to in Article 5.

3 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 European Parliament and the Council thereof.

4 For Union financing under this Regulation, particular attention shall be paid where appropriate to the compliance of partner countries with the core labour standards of the International Labour Organisation (ILO) and to their efforts to pursue reductions of greenhouse gas emissions.

5 In relation to countries listed in Annex II to this Regulation, policy coherence with measures financed under Regulation (EC) No 1905/2006 and 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 countries[(6)] shall be strictly observed.

Article 3

General principles

1 The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law and seeks to promote, develop and consolidate commitment to those principles in partner countries through dialogue and cooperation.

2 In the implementation of this Regulation a differentiated approach in designing cooperation with partner countries shall be pursued, where appropriate, to take account of their economic, social and political contexts as well as of the Union's specific interests, strategies and priorities.

3 Measures financed under this Regulation shall be consistent with and cover areas of cooperation set out notably in the instruments, agreements, declarations and action plans between the Union and partner countries, as well as areas pertaining to the Union's specific interests and priorities.

4 For measures financed under this Regulation, the Union shall aim to ensure coherence with other areas of its external action as well as with other relevant Union policies, in particular development cooperation. This shall be ensured by formulating policy, strategic planning and the programming and implementation of measures.

5 Measures financed under this Regulation shall complement and bring added value to the efforts undertaken by Member States and Union public bodies in the area of commercial relations and cultural, academic and scientific exchanges.

6 The Commission shall inform and have regular exchanges of views with the European Parliament.

Article 4

Areas of cooperation

Union financing shall support cooperation actions in accordance with Article 1 and shall be consistent with the overall purpose, scope, objectives and general principles of this Regulation. Union financing shall cover actions that, in principle, do not fulfil the ODA criteria, and which may include a regional dimension, in the following areas of cooperation:

(1) the promotion of cooperation, partnerships and joint undertakings between economic, social, cultural, academic and scientific actors in the Union and partner countries;

(2) the stimulation of bilateral trade, investment flows and economic partnerships, including a focus on small and medium-sized enterprises;

(3) the promotion of dialogue between political, economic, social and cultural actors and other non-governmental organisations in relevant sectors in the Union and partner countries;

(4) the promotion of people-to-people links, education and training programmes and intellectual exchanges and the enhancement of mutual understanding between cultures, particularly at the family level, including measures to ensure and increase Union participation in Erasmus Mundus and participation in European education fairs;

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

(6) the enhancement of awareness about and understanding of the Union and of its visibility in partner countries;

(7) support for specific initiatives, including research work, studies, pilot schemes or joint projects destined to respond in an effective and flexible manner to cooperation objectives arising from developments in the Union's bilateral relationships with partner countries or aiming to provide impetus to the further deepening and broadening of bilateral relationships with them.;

(3) in Article 5, paragraph 2 is replaced by the following:

2. Multiannual cooperation programmes shall cover no more than the period of validity of this Regulation. They shall set out the Union's specific interests and priorities, the general objectives and the expected results. In particular with regard to Erasmus Mundus, programmes shall aim for the most balanced geographical coverage possible. They shall also set out the areas selected for financing by the Union and outline the indicative financial allocation of funds, overall, per priority area and per partner country or group of partner countries for the period concerned. Where