

**REGULATION (EU) No 1341/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011
amending Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation**

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 209(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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) The Union's development policy aims to reduce and ultimately eradicate poverty.
- (2) The Union, as a member of the World Trade Organisation (WTO), is committed to mainstreaming trade in development strategies and to promoting international trade in order to advance development and reduce — and, in the long term, eradicate — poverty worldwide.
- (3) The Union supports the African, Caribbean and Pacific (ACP) Group of States on their path to poverty reduction and to sustainable economic and social development, and recognises the importance of their commodity sectors.
- (4) The Union is committed to supporting the smooth and gradual integration of developing countries into the world economy with a view to sustainable development. The main ACP banana-exporting countries may face chal-

lenges in the context of changing trade arrangements, notably liberalisation of the most-favoured nation (MFN) tariff in the framework of the WTO and the bilateral and regional agreements concluded, or in the process of being concluded, between the Union and Latin American countries. Therefore, an ACP banana accompanying measures programme (the BAM programme) should be added to Regulation (EC) No 1905/2006 of the European Parliament and of the Council⁽²⁾.

(5) The financial assistance measures to be adopted under the BAM programme should aim at improving the living standards and living conditions of people in banana-growing areas and in banana value chains, specifically small farmers and small entities, as well as ensuring compliance with labour and occupational health and safety standards, and environmental standards, notably those regarding the use of and exposure to pesticides. Those measures should therefore support adaptation and include, when relevant, the reorganisation, of areas dependent upon banana exports to the European Union through sector-specific budget support or project-specific interventions. The measures should take into consideration the expected development of the banana export sector and aim to provide for social resilience policies, economic diversification or investment to improve competitiveness, where this is viable, taking into account the results of and experiences gained through the Special System of Assistance (SSA) to traditional ACP suppliers of bananas established in accordance with Council Regulation (EC) No 2686/94⁽³⁾ and the Special Framework of Assistance (SFA) for traditional ACP suppliers of bananas established in accordance with Council Regulation (EC) No 856/1999⁽⁴⁾ and Commission Regulation (EC) No 1609/1999⁽⁵⁾. The Union acknowledges the importance of promoting a more equitable distribution of banana revenues.

(6) The BAM programme should accompany the adaptation process in ACP countries which have exported significant volumes of bananas to the Union in recent years and which may be affected by liberalisation in the framework of the Geneva Agreement on Trade in Bananas⁽⁶⁾ and by the bilateral and regional agreements concluded, or in the process of being concluded, between the Union and Latin American countries. The BAM programme builds on the SFA for traditional ACP suppliers of bananas. It is in conformity with the Union's international obligations in the framework of the

⁽¹⁾ Position of the European Parliament of 21 October 2010 (not yet published in the Official Journal) and position of the Council at first reading of 10 December 2010 (OJ C 7 E, 12.1.2011, p. 17). Position of the European Parliament of 3 February 2011 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and decision of the Council of 28 November 2011.

⁽²⁾ OJ L 378, 27.12.2006, p. 41.

⁽³⁾ OJ L 286, 5.11.1994, p. 1.

⁽⁴⁾ OJ L 108, 27.4.1999, p. 2.

⁽⁵⁾ OJ L 190, 23.7.1999, p. 14.

⁽⁶⁾ OJ L 141, 9.6.2010, p. 3.

WTO, focuses on restructuring and boosting competitiveness, and is consequently temporary in nature, with a duration of three years (2011 to 2013).

- (7) The conclusions of the Commission Communication of 17 March 2010 entitled 'Biennial Report on the Special Framework of Assistance for Traditional ACP Suppliers of Bananas' indicate that past assistance programmes made substantial contributions to achieving improved capacity for successful economic diversification, although the full impact cannot be quantified, and that the sustainability of ACP banana exports remains fragile.
- (8) The Commission has carried out an evaluation of the SFA programme and has not carried out an impact assessment of the banana accompanying measures.
- (9) The Commission should ensure proper coordination of this programme with the regional and national indicative programmes operating in the beneficiary countries, in particular as regards the achievement of economic, agricultural, social and environmental objectives.
- (10) Almost 2 % of the world's trade in bananas is endorsed by fair trade producers' organisations. The minimum fair trade prices are set on the basis of a calculation of the 'sustainable production costs', established following consultations with stakeholders, with a view to internalising the costs of meeting decent social and environmental standards and generating a reasonable profit, enabling producers to safeguard their livelihoods in the long term.
- (11) To prevent the exploitation of local workers, actors in the production chain in the banana industry should agree to ensure that the revenue generated by the industry is allocated fairly.
- (12) Regulation (EC) No 1905/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1905/2006 is hereby amended as follows:

- (1) Article 4 is replaced by the following:

'Article 4

Implementation of Union assistance

Consistent with the overall purpose and scope, objectives and general principles of this Regulation, Union assistance shall be implemented through the geographic and thematic programmes set out in Articles 5 to 16 and the programmes set out in Articles 17 and 17a.'

- (2) the following Article is inserted:

'Article 17a

Main ACP banana-supplying countries

- 1. The ACP banana-supplying countries listed in Annex IIIa shall benefit from the banana accompanying measures programme (BAM programme).

- (a) General objectives:

Union assistance shall aim at:

- (i) supporting the adjustment process following liberalisation of the Union market for bananas in the framework of the WTO;
- (ii) combating poverty by improving the living standards and conditions of farmers and persons concerned.

- (b) General priorities:

Union assistance shall take into account the countries' policies and adaptation strategies, as well as their regional environment (in terms of proximity to outermost regions of the Union and overseas countries and territories) and shall focus on one or more of the following areas of cooperation:

- (i) addressing broader impacts generated by the adaptation process, particularly in local communities and the most vulnerable groups therein, related but not restricted to employment and social services, land use and environmental restoration;
- (ii) promoting the economic diversification of banana-dependent areas, where such a strategy is viable;
- (iii) enhancing the competitiveness of the banana export sector, where this is sustainable, taking into account the situation of different stakeholders in the chain.

Programmes shall promote compliance with labour and safety standards, as well as environmental standards, including the use of and exposure to pesticides.

- (c) General expected results:

The results of the assistance shall be in line with the objectives as set out in point (a) of this paragraph. In particular, and in cooperation with the beneficiary countries, Union assistance shall pursue results to be achieved in social, environmental and economic areas.

2. Within the amount referred to in Annex IV, the Commission shall fix the maximum indicative amount available to each eligible ACP banana-supplying country referred to in paragraph 1 of this Article on the basis of the following criteria:

- (a) level of trade in bananas with the Union, whereby higher Union imports from the ACP country concerned will reflect positively on the allocation. This criterion is based on the size of the banana export sector to the Union in the different countries. The average of the three highest annual tonnages of bananas imported by the Union from each eligible beneficiary country over the last five years preceding 2010 will be taken into account;
- (b) importance of banana exports to the Union in the economy, whereby higher levels of importance in the ACP country concerned will reflect positively on the allocation. This criterion will be measured by taking the value of Union banana imports from each eligible beneficiary country as a percentage of the country's gross national income (GNI) over the last three years preceding 2010 for which data are available;
- (c) level of development, whereby lower levels of development as recorded in the UN's human development index (HDI) in the ACP country concerned will reflect positively on the allocation. This criterion will be measured by the average HDI over the period 2005-2007, for which the same methodology was used by the UN.

The measurement of the allocation criteria shall be based on representative data preceding 2011 and covering a period not longer than five years. The indicative country allocations will take account in the same way of the three criteria across all eligible beneficiary countries.

On the basis of the application of the criteria referred to above, the Commission will inform the European Parliament and Council about the intended use of the indicative financial allocation referred to in Annex IV before the adoption of the multiannual support strategies mentioned in paragraph 3 of this Article. That information will set out, for each eligible ACP banana-supplying country, the indicative amount available.

3. The Commission shall adopt multiannual support strategies by analogy to Article 19, and in accordance with Article 21. It shall ensure that such strategies complement the geographic strategy papers of the countries concerned, and the temporary nature of the banana accompanying measures.

The multiannual support strategies for banana accompanying measures shall include:

- (a) an updated environmental profile paying due attention to the country's banana sector, *inter alia*, focusing on pesticides;

- (b) information on the achievements of past banana support programmes;
- (c) indicators to assess progress in relation to disbursement conditions, when budget support will be chosen as the form of financing;
- (d) the expected results of the assistance;
- (e) a time schedule of support activities and of expected disbursements;
- (f) the ways in which progress will be achieved and monitored in meeting internationally agreed ILO core labour standards and appropriate occupational safety and health conventions as well as relevant internationally agreed core environmental standards.

In the framework of the multiannual financial framework for 2007-2013, established by Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission in budgetary discipline and sound financial management (*), the BAM programme and the progress made by the countries concerned shall be the subject of an assessment, which shall include recommendations on any measures to be taken and the nature thereof.

(*) OJ C 139, 14.6.2006, p. 1.;

(3) Article 21 is replaced by the following:

'Article 21

Adoption of strategy papers and multiannual indicative programmes

Strategy papers and multiannual indicative programmes referred to in Articles 19 and 20, and any reviews thereof referred to in Article 19(2) and Article 20(1), as well as accompanying measures referred to in Articles 17 and 17a respectively, shall be adopted by the Commission in accordance with the procedure referred to in Article 35(2).;

(4) Article 29(1) is replaced by the following:

'1. Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 17a(3), 22(1), 23(1) and 26(1).';

(5) in Article 31(1), the third subparagraph is replaced by the following:

'Participation in the award of procurement or grant contracts financed under a thematic programme as defined in Articles 11 to 16, and the programmes set out in Articles 17 and 17a, shall be open to all natural persons

who are nationals of, or legal persons who are established in, a developing country, as specified by the OECD/DAC and in Annex II, in addition to natural or legal persons eligible by virtue of the thematic programme or the programmes set out in Articles 17 and 17a. The Commission shall publish and update Annex II in accordance with regular reviews of the list of aid recipients of the OECD/DAC, and inform the Council thereof.;

(6) in Article 38, paragraphs 1 and 2 are replaced by the following:

'1. The financial reference amount for the implementation of this Regulation over the period 2007-2013 is EUR 17 087 million.

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

2. The indicative amounts allocated to each programme referred to in Articles 5 to 10, 11 to 16 and 17 to 17a are laid down in Annex IV. These amounts are established for the period 2007-2013.;

(7) Annex IIIa, as contained in Annex I to this Regulation, is inserted;

(8) Annex IV is replaced by the contents of Annex II to this Regulation.

Article 2

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

ANNEX I

'ANNEX IIIa

MAIN ACP BANANA-SUPPLYING COUNTRIES

1. Belize
2. Cameroon
3. Côte d'Ivoire
4. Dominica
5. Dominican Republic
6. Ghana
7. Jamaica
8. Saint Lucia
9. Saint Vincent and the Grenadines
10. Suriname'

ANNEX II

'ANNEX IV

INDICATIVE FINANCIAL ALLOCATIONS FOR THE PERIOD 2007-2013

	(EUR million)
Total	17 087
Geographic programmes:	10 057
Latin America	2 690
Asia	5 187
Central Asia	719
Middle East	481
South Africa	980
Thematic programmes:	5 596
Investing in people	1 060
Environment and sustainable management of natural resources	804
Non-State actors and local authorities in development	1 639
Food security	1 709
Migration and asylum	384
ACP Sugar Protocol countries	1 244
Main ACP banana-supplying countries	190'

COMMISSION STATEMENT FOR THE BANANA ACCOMPANYING MEASURES (BAM) PROGRAMME WITHIN THE DEVELOPMENT COOPERATION INSTRUMENT (DCI)

In the specific case of the Banana Accompanying Measures (BAM) and in view of the rationale and the objectives of the programme as set out in Article 17a of the financing instrument for development cooperation (DCI), the European Commission confirms that, in determining the indicative country allocations, it will apply a methodology in an objective and uniform manner that takes account of the importance of the banana sector and the economic and developmental realities of each eligible beneficiary country.

The Commission declares that it intends to apply a methodology which will give approximately equal weight to the first two criteria, whilst the third criterion will be used as a development coefficient. The objective of this methodology is to give equivalent importance across all beneficiary countries to their level of trade in bananas with the European Union and the importance of banana exports to the Union to the economies of each beneficiary country. The relative level of development will modulate the allocations in favour of countries with lower development levels, in line with the Union's development objectives as set out in the Treaties and the DCI.

STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE USE OF DELEGATED ACTS IN THE FUTURE MULTIANNUAL FINANCIAL FRAMEWORK (MFF) 2014-2020

The European Parliament and the Council take note of the Commission Communication *A Budget for Europe 2020* (COM (2011) 500 (1)), in particular in relation to the proposed use of delegated acts in the future external financing instruments and await legislative proposals, which will be duly considered.

(1) The Commission in its Communication: *A budget for Europe 2020* (COM (2011) 500), states that:

"Furthermore, the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of legislator."

and

"It is considered that democratic scrutiny of external aid must be improved. This could be achieved by the use of delegated acts in accordance with Article 290 of the Treaty for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming. For the EDF, it is proposed to bring scrutiny into line with the DCI, whilst taking into account the specificities of this instrument".