



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.10.1996
COM(96) 459 final

95/0110 (SYN)

**RE-EXAMINED PROPOSAL FOR A COUNCIL REGULATION (EC) ON
DEVELOPMENT COOPERATION WITH SOUTH AFRICA**

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

(concerning the amendments adopted by the European Parliament [on second reading under the cooperation procedure] and accepted or rejected by the Commission)

Subject: Re-examined proposal for a Council Regulation (EC) on development cooperation with South Africa.

Interinstitutional reference: 95/0110 (SYN)
Cooperation procedure, second reading Art. 189 C, d

Background:

- On 10 May 1995, the Commission presented to the Council and to the Parliament a proposal for a Council Regulation¹ aiming to give a legal base to Budget Line B 7-3200, the European Programme for Reconstruction and Development in South Africa.
- The proposed Council Regulation on development cooperation activities in the Republic of South Africa, based on Article 130 W of the Treaty, is subject to the cooperation procedure (Art. 189 C of the Treaty).
- According to the cooperation procedure, the Parliament expressed its opinion in first reading on 10 October 1995² and presented a total of 6 amendments. Some of the Parliament amendments have been included in the draft Regulation during the discussions between the Commission and the Council which took place in the last quarter of 1995.
- The Council adopted on 18 March 1996 a common position³ and the Commission agreed to the new dispositions resulting from the discussions in the Council as it considered that they contributed to a better definition of the legal framework of the EPRD in South Africa, the only exceptions concerning the comitology, the duration of the Regulation and the financing of the EPRD⁴.
- The Parliament has expressed its opinion in second reading on 18 July 1996⁵ and adopted 4 amendments. These amendments concern: the role of Government and civil society in the policy dialogue and the involvement of Member States in the programming exercise; the authority of the Head of Delegation in financial matters; the comitology; references to a time limit and to a financial envelope.
- The Commission presents a re-examined proposal including the amendments considered acceptable, according to Art. 189 C - d of the Treaty.

¹ COM (95) 174 final, JO C 235 of 09.09.1995, p. 5

² JO C 287 of 30.10.1995, p. 29

³ doc. 12784/1/95 of 18 March 1996

⁴ SEC (96) 627 final of 11.04.1996

⁵ EP 166.186

Commentary on the amendments adopted by the European Parliament and accepted or rejected by the Commission

The Commission does not consider acceptable most of Amendment 1 and the whole of Amendment 2, whereas it considers as acceptable part of Amendment 3 and the whole of Amendment 4.

Amendment N° 1

The Commission agrees with the renewed reference to the political dialogue with the South African Government, the only possible counterpart, in the Commission view, in a meaningful policy dialogue. The Commission therefore accepts this part of the amendment, as formulated in the text of the Common Position.

On the other hand, with regard to the role of the National Development Agency (South African NGOs umbrella organisation, planned but not yet established) in the cooperation policy dialogue, the Commission considers that this body, not established yet, should not be an interlocutor of the Commission on policy matters but, once established, a useful umbrella organisation for NGOs, for channelling funds towards NGO projects coherent with sectoral priorities agreed upon by the South African Government and the Commission. The Commission therefore does not consider acceptable this part of the amendment.

The Parliament also deletes the reference to coordination measures between the Commission and the Council with regard to the role of the SA Committee and the programming exercise, introduced in the common position and not present in the original proposal of the Commission. In this respect, the Commission rallied with the common position on the coordination/programming exercise for the parallelism with the procedures of the Lomé Convention and therefore it does not consider acceptable this part of the amendment.

Amendment N° 2

The Commission does not favour a specific reference to an amount under which the Head of Delegation can authorise expenditures and operations as it is part of the Commission's Mandate to execute Budget Line B 7-3200 and such matters should not be part of a Regulation.

Amendment N° 3

The Commission agrees with the European Parliament that a II-a type of Committee (as proposed originally by the Commission) is more appropriate for EPRD matters and that the Common Position reached by the Council (III-a type of Committee) should be amended accordingly.

On the other hand, the participation of a member of the Committee on Development and Cooperation of the Parliament does not conform to the decision of the Council in 1987 concerning comitology procedures. The proposed Committee forms part of the procedures organizing the execution of the Budget by the Commission. The Commission therefore does not consider acceptable this part of the amendment.

Amendment N° 4

The Commission agrees with the Amendment proposed by the European Parliament not to refer to an expiry date and a financial envelope, as this is an area of responsibility of the budgetary authority.

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Article 8 should read as follows:

1. "The Commission shall be assisted by a committee to be known as the "South Africa Committee", consisting of representatives of the Member States and chaired by the representative of the Commission.
2. The Commission representative shall present to the Committee a draft of measures to be adopted. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority stipulated in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has adopted for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph".

Article 10 should read as follows:

"This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.

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

The adoption of Article 10 in the above format, would result in deleting the following sentence introduced as the **last Recital of the preamble** of the Common Position adopted by the Council:

"Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, is included in this Regulation for the duration of the programme,, without thereby affecting the powers of the budgetary authority".

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