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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	15058/16
No. Cion doc.:	COM(2016) 778 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 1303/2013 as regards specific measures to provide additional assistance to Member States affected by natural disasters - Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 30 November 2016, the Commission transmitted to the Council its proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards specific measures to provide additional assistance to Member States affected by natural disasters¹.

¹ Doc. 15058/16.

2. The Commission proposal introduces the possibility of a separate priority axis for reconstruction operations supported by the ERDF within an operational programme, with the possibility to finance such operations fully from the ERDF, thus without the need for national co-financing. Operations falling within this priority axis are those linked to reconstruction in response to major or regional natural disasters in line with and complementing the type of support available under Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund. It is worth noting that the proposal remains within the limits of the overall ERDF allocation for the 2014-2020 period and is therefore budgetary neutral.
3. The proposal has been examined by the Structural Measures Working Party on 8 December 2016 under the Slovak Presidency, as well as on 12 January, 16 and 27 March 2017 under the Maltese Presidency.
4. Based on discussions at Working Party level, the Presidency aims at an agreement on a mandate in order to start trilogue negotiations with the European Parliament.

II. STATE OF PLAY

5. During its negotiations, the Structural Measures Working Party took note of the positions of several delegations against the possibility of up to 100% co-financing rate (which could imply up to 100% of EU financing with no national co-financing) as proposed by the Commission. They were arguing that this is not in line with the current Cohesion policy logic of projects and operations mainly being co-financed by both EU and national financing. In such context, a group of delegations proposed a top-up solution of 10% increase to current co-financing rates.
6. Other delegations have supported the original Commission proposal (up to 100%), as a way of providing a simple, quick and visible solution to those Member States hit by natural disasters.
7. The Presidency has decided to maintain the text of the original Commission proposal except for one change: the co-financing rate appearing both in recital (1) and Article 1 of the proposal, which has been changed from 100% to 90%.

8. At the level of the Structural Measures Working Party, there is broad support for the compromise text, which is generally considered a balanced compromise proposal by the Presidency. However, some delegations are still supporting the initial Commission proposal. In addition, NL has indicated a reservation on the compromise text while UK has indicated a scrutiny reservation.

III. CONCLUSION

9. Against this background, the Permanent Representatives Committee is invited to:
- agree on the mandate with regard to the proposed regulation, as set out in the Annex to this note²;
 - invite the Presidency to conduct negotiations with the European Parliament on the basis of this mandate.

² Changes to the Commission proposal (doc. 15058/16) as proposed by the Presidency are indicated in **bold underlined** for additions and ~~strikethrough~~ for deletions in the Annex to this note.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1303/2013 as regards specific measures to provide additional assistance to Member States affected by natural disasters

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 177 thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee³,

After consulting the Committee of the Regions⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In order to provide additional assistance to Member States affected by natural disasters, the possibility of introducing within an operational programme a separate priority axis with a co-financing rate of up to ~~100~~ **90** % should be provided under the European Regional Development Fund ('ERDF') investment priorities, set out in Regulation (EU) No 1301/2013 of the European Parliament and of the Council⁵.

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).

- (2) The operations that may be co-financed under this separate priority axis are those linked to reconstruction in response to major or regional natural disasters as defined in Council Regulation (EC) No 2012/2002⁶ establishing the European Union Solidarity Fund.
- (3) For operations under the separate priority axis for natural disasters, a derogation to the general rules concerning the starting date of eligibility of expenditure in relation to expenditure that becomes eligible as a result of an amendment of a programme should be introduced to ensure the possibility to co-finance measures taken by Member State authorities directly after the disaster occurred and before the operational programme is amended.
- (4) In order to allow for the eligibility of expenditure incurred and paid from the date when the natural disaster occurred, even if this is before the entry into force of this Regulation, the corresponding provision on the starting date of eligibility of expenditure of beneficiaries should have retroactive effect.
- (5) Therefore, Regulation (EU) No 1303/2013 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 120 of Regulation (EU) No 1303/2013, the following paragraph is added.

'8. A separate priority axis with a co-financing rate of up to ~~100~~ **90** % may be established within an operational programme to support operations which fulfil the following conditions:

- a) the operations are selected by managing authorities in response to major or regional natural disasters as defined in Council Regulation (EC) No 2012/2002;
- b) the operations aim at reconstruction in response to the natural disaster; and
- c) the operations are supported under an ERDF investment priority.

By way of derogation from Article 65(9), expenditure for operations under this priority axis shall be eligible from the date when the natural disaster occurred.

Where expenditure in relation to operations referred to in the first subparagraph has been included in a payment application submitted to the Commission before the establishment of the separate priority axis, the Member State shall make the necessary adjustments to the next payment application and, where appropriate, to the next accounts submitted following the adoption of the amendment to the programme.'

⁶ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

Article 2

Entry into force and application

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

Article 1 shall apply from 1 January 2014.

Done at Brussels,

For the European Parliament

The President

For the Council

The President
