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NOTE

from: General Secretariat
to: Delegations

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Subject: Proposals for external financing instruments under Heading 4 of the Multiannual Financial Framework 2014-2020
– Partial General Approach
= Draft Regulation of the European Parliament and of the Council establishing an Instrument for Stability

Delegations will find at annex the text of the above-mentioned partial general approach which was adopted by the Council (Foreign Affairs) on 25 June 2012.

DRAFT
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing an Instrument for Stability

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 209(1) and 212(2) 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,

Whereas:

1. This Regulation constitutes one of the instruments providing direct support for the European Union's external policies. It will replace Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability¹ which will expire on 31 December 2013.
2. Preserving peace, preventing conflicts, strengthening international security and assisting populations, countries and regions confronting natural or man-made disasters are among the prime objectives of the Union's external action as defined in Article 21 of the Treaty on European Union (TEU). Crises and conflicts affecting countries world-wide and other factors such as terrorism, organised crime, climate change, cyber security challenges and threats and natural disasters pose a risk to world stability and security. In order to address these issues in an effective and timely manner, specific financial resources and financing instruments are required that can work in a manner complementary to humanitarian aid and long-term cooperation instruments.
3. Regulation (EC) No 1717/2006 was adopted with the objective of enabling the Union to provide a consistent and integrated response to situations of crisis and emerging crisis, to address specific global and trans-regional security threats and to enhance crisis preparedness. This Regulation aims at introducing a revised Instrument, building on the experience of the previous one, in order to increase the efficiency and coherence of the Union's actions in the areas of conflict prevention and crisis response, crisis preparedness and peace-building and in addressing security threats, including climate security.

¹ OJ L 327, 24.11.2006, p. 1–11.

4. Measures taken under this Regulation should pursue the objectives of Article 21 of the TEU and Articles 208 and 212 of the Treaty on the Functioning of the European Union (TFEU). They may be complementary to and should be consistent with measures adopted by the Union in pursuit of Common Foreign and Security Policy objectives within the framework of Title V of the TEU and measures adopted within the framework of Part Five of the TFEU. The Council and the Commission should cooperate to ensure such consistency, each in accordance with its respective powers.
5. In its conclusions of 15 and 16 June 2001, the European Council endorsed the Union Programme for the Prevention of Violent Conflicts, which underlined the Union's 'political commitment to pursue conflict prevention as one of the main objectives of the EU's external relations' and stated that development cooperation instruments can contribute to this goal and to the development of the Union as a global player. The Council conclusions of 20 June 2011 on conflict prevention have restated the validity of that programme as a valid basis for further Union action in the field of conflict prevention.
6. In their conclusions of 19 November 2007 on security and development as well as on a Union response to situations of fragility, the Council and the Representatives of the Governments of the Member States meeting within the Council emphasised that the nexus between development and security should inform Union strategies and policies in order to contribute to the coherence of Union external action. More specifically, the Council concluded that future work on security and development should include the security and development implications of climate change, environmental and natural resource management issues and migration.
7. The European Council approved the European Security Strategy on 12 December 2003 and the shared analysis of its Implementation Report on 11 December 2008. The Commission's EU Internal Security Strategy adopted on 22 November 2010 also noted the importance of cooperation with third countries and regional organisations in particular for combating multiple threats such as trafficking in human beings, drugs trafficking and terrorism.

8. The European Council Declaration on Combating Terrorism of 25 March 2004 called for counter-terrorism objectives to be integrated into external assistance programmes; the European Counter-Terrorism Strategy, adopted by the Council on 30 November 2005, called for increased counter-terrorism cooperation with third countries and the United Nations; and the Council Conclusions of 23 May 2011 on enhancing the links between internal and external aspects of counter-terrorism called for strengthening the capacity of the competent authorities involved in the fight against terrorism in third countries in the strategic programming of the Instrument for Stability.
9. In order to ensure uniform conditions for implementation of this Regulation, implementing powers should be conferred on the Commission. The implementing powers relating to programming and implementation measures laid down in this Regulation should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers².
10. *(deleted)*
11. *(deleted)*
12. Taking into account the nature of those implementing acts, in particular their policy orientation nature or budgetary implications, the examination procedure should in principle be used for their adoption, except for measures of a small financial scale.
13. The Commission should immediately adopt applicable implementing acts where in duly justified cases relating to the need for a swift response from the Union, imperative grounds of urgency so require.

² OJ L 55, 28.2.2011, p.13.

14. Common rules and procedures for the implementation of the Union's instruments for external action are laid down in Regulation (EU, Euratom) No .../... of the European Parliament and of the Council of ... establishing common rules and procedures for the implementation of the Union's instruments for external action, (hereinafter referred to as 'the Common Implementing Regulation').
15. The organisation and functioning of the European External Action Service are described in Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service³.
16. Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

³ OJ L 201, 3.8.2010, p. 30.

TITLE I

OBJECTIVES AND SCOPE

Article 1

Objectives

1. The Union shall undertake development cooperation, as well as financial, economic and technical cooperation measures with third countries, regional and international organisations and other state and civil society actors under the conditions set out in this Regulation.
2. In accordance with the objectives of such cooperation, the specific aims of this Regulation shall be:
 - (a) in a situation of crisis or emerging crisis, to contribute swiftly to stability by providing an effective response to help preserve, establish or re-establish the conditions essential to the proper implementation of the Union's development and cooperation policies;
 - (b) to contribute to the prevention of conflicts, to ensuring preparedness to address pre- and post-crisis situations and to building peace;
 - (c) to address specific global and trans-regional threats having a destabilising effect, including climate change.

Article 2

Coherence and complementarity of Union assistance

1. The Commission shall ensure that measures adopted under this Regulation are consistent with the Union's overall strategic policy framework for the partner country, and in particular with the objectives of the instruments referred to in paragraph 2, as well as with other relevant Union measures.
2. Measures taken under this Regulation may be complementary to, and shall be consistent with measures adopted under Title V of the TEU and Part Five of the TFEU.
3. Union assistance under this Regulation shall be complementary to that provided for under related Union instruments for external assistance. It shall be provided only to the extent that an adequate and effective response cannot be provided under those instruments.
4. Activities covered by Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid⁴ and Decision (EU) No.....of the European Parliament and of the Council on a Union Civil Protection Mechanism⁵ and eligible for funding thereunder may not be funded under this Regulation.
5. In order to enhance the effectiveness and consistency of Union and national assistance measures and to prevent double-funding, the Commission shall promote close coordination between its own activities and those of the Member States, both at decision-making level and with Member States' representations and other relevant actors on the ground, including at regional level. To that end, the Member States and the Commission shall operate a system for exchange of information.

⁴ OJ L 163, 2.7.1996, p. 1.

⁵ Instrument under review.

Article 3

Assistance in response to situations of crisis or emerging crisis to prevent conflicts

1. Union technical and financial assistance in pursuit of the specific aims set out in point (a) of Article 1(2) may be undertaken in response to a situation of urgency, crisis or emerging crisis, a situation posing a threat to democracy, law and order, the protection of human rights and fundamental freedoms, or the security and safety of individuals, or a situation threatening to escalate into armed conflict or severely to destabilise the third country or countries concerned. Such measures may also address situations where the Union has decided to suspend, partially or totally, cooperation with third countries.
2. Technical and financial assistance referred to in paragraph 1 shall cover the following areas:
 - (a) support for the efforts undertaken by international and regional organisations, state and civil society actors in promoting confidence-building, mediation, dialogue and reconciliation;
 - (b) support for the establishment and the functioning of interim administrations mandated in accordance with international law;
 - (c) support for the development of democratic, pluralistic state institutions, including measures to strengthen the capacity of law enforcement and judicial authorities involved in the fight against terrorism, organised crime and all forms of illicit trafficking;
 - (d) support for international criminal tribunals and ad hoc national tribunals, truth and reconciliation commissions, and mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights, established in accordance with international human rights and rule of law standards;

- (e) support for measures necessary to start the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, as well as essential productive capacity, as well as other measures for the re-starting of economic activity and the generation of employment and the establishment of the minimum conditions necessary for sustainable social development;
- (f) support for civilian measures related to the demobilisation and reintegration of former combatants into civil society, and where appropriate their repatriation, as well as measures to address the situation of child soldiers and female combatants;
- (g) support for measures to mitigate the social effects of restructuring of the armed forces;
- (h) support for measures to address, within the framework of Union cooperation policies and their objectives, the socio-economic impact on the civilian population of anti-personnel landmines, unexploded ordnance or explosive remnants of war;
- (i) support for measures to combat, within the framework of Union cooperation policies and their objectives, the illicit use of and access to firearms, small arms and light weapons, in particular through survey activities, victim assistance, raising public awareness and the development of legal and administrative expertise and good practice;
- (j) support for measures to ensure that the specific needs of women and children in crisis and conflict situations, are adequately met;
- (k) support for the rehabilitation and reintegration of the victims of armed conflict, including measures to address the specific needs of women and children;
- (l) support for measures to promote and defend respect for human rights and fundamental freedoms, democracy and the rule of law, and the related international instruments;

- (m) support for socio-economic measures to promote equitable access to and transparent management of natural resources in a situation of crisis or emerging crisis;
 - (n) support for socio-economic measures to address the impact of sudden population movements, including measures addressing the needs of host communities in a situation of crisis or emerging crisis;
 - (o) support for measures to support the development and organisation of civil society and its participation in the political process, including measures to enhance the role of women in such processes and measures to promote independent, pluralist and professional media;
 - (p) support for measures in response to natural or man-made disasters and threats to public health in the absence of, or to complement, Union humanitarian and civil protection assistance in accordance with Article 2.
3. Performance and overall impact of this assistance will be evaluated in both the mid-term review and final evaluation.
4. In the exceptional and unforeseen situations referred to in paragraph 1, the Union may also provide technical and financial assistance not expressly covered by the specific areas of assistance set out in paragraph 2. Such assistance shall be limited to Exceptional Assistance Measures as referred to in Article 7(2), which:
- (a) fall within the general scope and specific aims set out in Article 1(2)(a), and
 - (b) are limited in duration to the period laid down in Article 7(2), and
 - (c) would normally be eligible under other Union instruments for external assistance or the other components of this instrument but which, in accordance with Article 2, should be addressed through crisis or emerging crisis measures because of the need to respond rapidly to the situation.

Article 4

Assistance for conflict prevention, crisis preparedness and peace-building

1. The Union shall provide technical and financial assistance in pursuit of the specific aims set out in point (b) of Article 1(2) in the area of conflict prevention, crisis preparedness and peace-building.

2. Technical and financial assistance referred to in paragraph 1 shall cover support for measures aimed at building and strengthening the capacity of the Union and its partners to prevent conflict, build peace and address pre- and post-crisis needs in close coordination with international, regional and sub-regional organisations, state and civil society actors in relation to their efforts in:
 - (a) promoting early warning, and conflict-sensitive risk analysis in policy making;

 - (b) facilitating confidence-building, mediation and reconciliation with particular regard to emerging inter-community tensions;

 - (c) strengthening capacities to participate in civilian stabilization missions;

 - (d) improving post-conflict and post-disaster recovery.

Measures under this Article shall include know-how transfer, the exchange of information and best practices, risk/threat assessment, research and analysis, early warning systems, training and service delivery. They may also include financial and technical assistance for the implementation of peace building and state building support actions.

Assistance in addressing global and transregional threats

The Union shall provide technical and financial assistance in pursuit of the specific aims set out in point (c) of Article 1(2) in the following areas:

1. threats to law and order, to the security and safety of individuals, to critical infrastructure and to public health;

assistance shall cover support for measures aimed at:

- (a) strengthening the capacity of law enforcement and judicial and civil authorities involved in the fight against terrorism, organised crime, including cyber-crime, and all forms of illicit trafficking, and in the effective control of illegal trade and transit.

Priority shall be given to trans-regional cooperation involving two or more third countries which have demonstrated a clear political will to address these problems. Cooperation in the fight against terrorism may also be conducted with individual countries, regions or international, regional and sub-regional organisations

Measures in this area shall place particular emphasis on good governance in accordance with international law.

With regard to assistance to authorities involved in the fight against terrorism, priority shall be given to supporting measures concerning the development and strengthening of counter-terrorism legislation, the implementation and practice of financial law, of customs law and of immigration law, the development of law enforcement procedures aligned with the highest international standards, the strengthening of democratic control and institutional oversight mechanisms, and the prevention of radicalism.

With regard to assistance relating to the problem of drugs, due attention shall be given to international cooperation aimed at promoting best practices relating to the reduction of demand, production and harm;

- (b) addressing threats to critical infrastructure, which may include international transport, including passenger and freight traffic, energy operations and energy distribution, electronic information and communication networks.

Measures adopted in this area shall place particular emphasis on trans-regional cooperation and the implementation of international standards in the fields of risk awareness, vulnerability analysis, emergency preparedness, alert and consequence management;

- (c) ensuring an adequate response to major threats to public health, including sudden epidemics with a potential trans-national impact.
- (d) addressing global and trans-regional effects of climate change with a potentially destabilising impact

- 2. mitigation of and preparedness against risks, either of an intentional, accidental or natural origin, related to chemical, biological, radiological and nuclear materials or agents; assistance shall cover support for measures aimed at:

- (a) the promotion of civilian research activities as an alternative to defence-related research;
- (b) enhancing safety practices related to civilian facilities where sensitive chemical, biological, radiological and nuclear materials or agents are stored, or are handled in the context of civilian research programmes;

- (c) support, within the framework of Union cooperation policies and their objectives, the establishment of civil infrastructure and relevant civilian studies necessary for the dismantlement, remediation or conversion of weapons-related facilities and sites where these are declared as no longer belonging to a defence programme;
- (d) strengthening the capacity of the competent civilian authorities involved in the development and enforcement of effective control of illicit trafficking in chemical, biological, radiological and nuclear materials or agents;
- (e) the development of the legal framework and institutional capacities for the establishment and enforcement of effective export controls on dual-use goods, including regional cooperation measures;
- (f) the development of effective civilian disaster-preparedness, emergency-planning, crisis response, and capabilities for clean-up measures in relation to possible major environmental incidents in this field.

TITLE II
PROGRAMMING AND IMPLEMENTATION

Article 6

General framework for programming and implementation

1. Union assistance shall be implemented in accordance with the Common Implementing Regulation and through the following programming documents and financial implementation measures:
 - (a) Exceptional Assistance Measures and Interim Response Programmes;
 - (b) Thematic Strategy Papers and Multiannual Indicative Programmes ;
 - (c) Annual Action Programmes, Individual Measures and Special Measures;
 - (d) Support Measures.
2. Detailed rules related to the adoption of measures referred to in points (c) and (d) are laid down in Articles 2 and 3 of the Common Implementing Regulation.

Article 7

Exceptional Assistance Measures and Interim Response Programmes

1. Union assistance under Article 3 shall be carried out through Exceptional Assistance Measures and through Interim Response Programmes.

2. The Commission may adopt an Exceptional Assistance Measures in a situation of crisis as referred to in Article 3(1), as well as in exceptional and unforeseen situations as referred to in Article 3(3), where the effectiveness of the measures is dependent on rapid or flexible implementation. Such a measure may have a duration of up to 18 months and may be extended twice by a period of six months, up to 30 months, in the case of objective and unforeseen obstacles to its implementation, provided that the financial amount of the measure does not increase.
3. Where an Exceptional Assistance Measure costs more than EUR 20 000 000, that measure shall be adopted in accordance with the examination procedure referred to in Article 15 (3) of the Common Implementing Regulation.
4. The Commission may adopt Interim Response Programmes in accordance with the examination procedure referred to in Article 15 (3) of the Common Implementing Regulation with a view to establishing or re-establishing the essential conditions necessary for the effective implementation of the Union's external cooperation policies. Interim Response Programmes shall build on Exceptional Assistance Measures.
5. Before adopting or extending Exceptional Assistance Measures costing up to EUR 20 000 000, the Commission shall inform the Council of their nature, objectives and the financial amounts envisaged. The Commission shall likewise inform the Council before making significant substantive changes to Exceptional Assistance Measures already adopted. It shall take account of the relevant policy approach of the Council both in its planning and subsequent implementation of such measures, in the interest of the coherence of Union's external action.
6. As soon as possible following the adoption of an Exceptional Assistance Measures, and in any case within one month thereof, the Commission shall report to the European Parliament and to the Council by giving an overview of the nature and context of the measure.

7. The Commission shall keep the European Parliament regularly informed about its planning of Union assistance under Article 3.

Article 8

Thematic Strategy Papers and Multiannual Indicative Programmes

1. Thematic Strategy Papers shall constitute the general basis for the implementation of assistance under Article 4 and 5. Thematic Strategy Papers shall provide a framework for cooperation between the Union and the partner country or regions concerned, consistent with the overall purpose and scope, objectives, principles and policy of the Union.
2. The preparation and implementation of Thematic Strategy papers shall implement the principles of aid effectiveness: partnership, coordination, and harmonisation. To that end, Thematic Strategy Papers shall be consistent with, and avoid duplicating programming documents approved or adopted under other Union instruments for external assistance. Thematic Strategy Papers shall, in principle, be based on a dialogue of the Union and, where appropriate, the relevant Member States, with the partner country or regions concerned involving civil society and regional and local authorities, so as to ensure that the country or regions concerned take sufficient ownership of the process. The Union and its Member States shall consult each other, where appropriate, at an early stage of the programming process in order to promote consistency and complementarity among their cooperation activities.
3. Each Thematic Strategy Paper shall be accompanied by a Multiannual Indicative Programme summarising the priority areas selected for Union financing, the specific objectives, the expected results, performance indicators and timeframe of Union support. The Multiannual Indicative Programmes shall determine the indicative financial allocations for each programme taking into account the needs and the particular difficulties of the partner countries or regions concerned. The financial allocations may be given in the form of a range where necessary.

4. Thematic Strategy Papers shall be approved and Multiannual Indicative Programmes shall be adopted by the Commission in accordance with the examination procedure referred to in Article 15 (3) of the Common Implementing Regulation. This procedure shall also apply to substantial reviews which have the effect of modifying significantly the strategy or its programming.
5. The examination procedure referred to in paragraph 4 shall not apply to non-substantial modifications or technical adjustments to Thematic Strategy Papers and Multiannual Indicative Programmes, reassigning funds within the indicative allocations per priority area, or increasing or decreasing the size of the initial indicative allocation by not more than 20% but not exceeding EUR 10 million, provided that these modifications do not affect the priority areas and objectives set out in these documents. In such case, adjustments shall be communicated to the European Parliament and to the representatives of the Member States in the Committee referred to in Article 9 without delay.
6. The urgency procedure referred in Article 15(4) of the Common Implementing Regulation may be applied for modifying Thematic Strategy Papers and Multiannual Indicative Programmes where, on duly justified imperative grounds of emergency, a swift response from the Union is required.

TITLE III

FINAL PROVISIONS

Article 9

(deleted)

Article 10

(deleted)

Article 11

Committee

The Commission shall be assisted by a committee (“the Instrument for Stability Committee”). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

Article 12

European External Action Service

The application of this Regulation shall be in accordance with Decision 2010/427/EU establishing the organisation and functioning of the European External Action Service.

Article 13

Financial reference amount

1. The financial reference amount for the implementation of this Regulation for the period 2014 to 2020 is set at [EUR 2 828 900 000]⁶.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the multiannual financial framework.
3. In the period 2014 to 2020 at least 70 percentage points of the financial envelope shall be allocated to measures falling under Article 3.

Article 14

Entry into force

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

It shall apply from 1 January 2014 until 31 December 2020.

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

⁶ All reference amounts will be entered after the conclusion of negotiations regarding the Multiannual Framework (2014-2020).

ANNEX I

(moved to Article 3)

ANNEX II

(moved to Article 4)

ANNEX III

(moved to Article 5)