



HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

Strasbourg, 5.7.2016
SWD(2016) 222 final

JOINT STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Capacity Building in support of Security and Development

Accompanying the document

**Proposal for a Regulation from the European Parliament and the Council amending
Regulation (EU) No 230/2014 of 11 March 2014 establishing an instrument contributing
to stability and peace**

{ COM(2016) 447 final }

{ SWD(2016) 225 final }

IMPACT ASSESSMENT REPORT

CAPACITY BUILDING IN SUPPORT OF SECURITY AND DEVELOPMENT

1.	INTRODUCTION	4
1.1.	POLICY CONTEXT	5
1.2.	GAP IN CURRENT EU EXTERNAL ACTIONS INSTRUMENTS: THE MISSING LINK	8
1.3.	PROBLEM DEFINITION: WHO IS AFFECTED BY THE PROBLEM AND HOW?	10
1.4.	PILOT PROJECTS: ILLUSTRATION OF LIMITATIONS	12
1.5.	CSDP: ILLUSTRATION OF LIMITATIONS	12
1.6.	CONTEXT PROVIDED BY EU PRIMARY LAW	13
1.7.	THE EU'S NEED TO ACT AND JUSTIFICATION (SUBSIDIARITY).....	14
1.8.	BASELINE SCENARIO	15
2.	OBJECTIVES: WHAT SHOULD BE ACHIEVED?.....	16
2.1.	GENERAL OBJECTIVES	16
2.2.	SPECIFIC OBJECTIVES	16
2.3.	RISKS AND MITIGATING MEASURES	18
2.4.	CONSISTENCY WITH EU POLICIES.....	19
3.	POLICY OPTIONS TO ACHIEVE THE OBJECTIVES	20
3.1.	IDENTIFYING THE POLICY OPTIONS	20
3.2.	OPTIONS OUTSIDE THE GENERAL BUDGET OF THE UNION	21
3.3.	OPTIONS WITHIN THE GENERAL BUDGET OF THE UNION	21
3.4.	DESCRIPTION OF THE POLICY OPTIONS	21
	Option 1 – Adapting the African Peace Facility	21
	Option 2 – New dedicated instrument outside the general budget of the Union comparable to the European Development Fund (EDF).....	23
	Option 3 – Revision of the Athena mechanism	23
	Option 4 – Adapting the Instrument contributing to stability and peace.....	24
	Option 5 – ‘Facility’ with existing EU instruments.....	25
	Option 6 – New dedicated instrument based on Articles 209 and 212.....	26
	Option 7 – New instrument based on Article 28 TEU under CFSP	26
4.	COMPARISON OF THE POLICY OPTIONS AND ASSESSMENT OF THE IMPACTS	27
4.1.	COMPARING THE OPTIONS	27
4.2.	PREFERRED OPTION	31
5.	MONITORING AND EVALUATION	31
3.	ANNEXES	33
	ANNEX 1: INCEPTION IMPACT ASSESSMENT	33
	ANNEX 2: PUBLIC CONSULTATION: OVERVIEW	33

ANNEX 3: TARGETED CONSULTATION OF STAKEHOLDERS	40
ANNEX 4: ADDITIONAL VIEWS BY EU MEMBER STATES.....	41
ANNEX 5: LIST OF ACRONYMS AND ABBREVIATIONS	42

1. INTRODUCTION

Sustainable development and poverty eradication require peace and security; at the same time, without development and poverty reduction there will be no sustainable peace. The initiative ‘**Capacity building in support of security and development**’ (CBSD) seeks to address this link, as part of the Commission Work Programme 2016.¹ The importance of appropriate capacity building of all security actors in EU partner countries was identified in a Joint Communication from the Commission and the High Representative of 28 April 2015² and the subsequent conclusions of the Foreign Affairs Council of 18 May 2015³.

The May 2015 Council conclusions called for an EU-wide strategic framework for security sector reform in partner countries, which should also outline how coordination between different types of capacity building could be reinforced. This is done in the Joint Communication *Elements for an EU-wide strategic framework to support Security Sector Reform*⁴, which recognises that “**conflict, insecurity and instability [...] lead to human suffering, forced displacement and dire development outcomes**”,⁵ as recognised by EU development policy⁶, in work on security and development in general and in the United Nations Resolution *Transforming our world: the 2030 Agenda for Sustainable Development*, including Goal 16⁷ on peace and stability. The Joint Communication further recognises that “insecurity and instability are frequently generated or aggravated by a lack of effective and accountable security systems”. The Joint Communication seeks to enhance the EU’s effectiveness in supporting: (a) partner countries - to ensure security for individuals and the State, including preventing and addressing transnational security threats, and (b) the legitimacy, good governance, integrity and sustainability of the security sectors of partner countries.

In 2015, EU Member States requested proposals on how best to address an identified problem, **namely the lack of comprehensive and flexible EU support to capacity building (especially training and equipment) of security actors, including the military, in third countries in the pursuit of development policy goals**. The Council hence invited the European External Action Service (EEAS) and Commission services to explore “the full potential of all relevant Union instruments taking into account their legal bases, and to assess the feasibility” of different options.⁸ The European Council of June 2015 recalled the need for “empowering and enabling partners to prevent and manage crises, including through concrete projects of capacity building with a flexible geographic scope”.⁹

¹ COM (2015) 610 final of 28 October 2015. The work programme package includes a Communication on security sector reform and a possible new dedicated instrument for capacity building in support of security and development in partner countries.

² JOIN(2015) 17 final of 28 April 2015

³ Foreign Affairs Council (Defence formation) conclusions on CSDP, document 8971/15 of 18 May 2015

⁴ JOIN(2016) 31

⁵ Approximately 43% of those living in absolute poverty reside in fragile and conflict-affected countries.

⁶ COM(2011) 637 and Council conclusions ‘Increasing the Impact of EU Development Policy: an Agenda for Change’, 3166th Foreign Affairs Council meeting, Brussels, 14 May 2012

⁷ *Transforming our world: the 2030 Agenda for Sustainable Development* (Resolution adopted by the General Assembly on 25 September 2015; UNGA A/RES/70/1); Goal 16: ‘promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’

⁸ Foreign Affairs Council (Defence formation) conclusions on CSDP, document 8971/15 of 18 May 2015

⁹ Conclusions of the European Council meeting of 25 and 26 June 2015, EUCO 22/15

Following intensive discussions with different Council formations throughout 2015 and exchanges at the European Parliament on the topic, an online public consultation was launched on 1 April 2016; whilst acknowledging the non-representativeness of responses provided, 94% of the respondents to the public consultation agreed that an effective, legitimate and accountable security sector in partner countries could contribute to peace, human security and sustainable development.

1.1. POLICY CONTEXT

Union policy in the field of development cooperation is to be conducted within the framework of the principles and objectives of the Union's external action, which include, *inter alia*, the preservation of peace, prevention of conflicts and strengthening of international security as well as the fostering of sustainable economic, social and environmental development of developing countries (Article 21 TEU). With regard to development policy, the EU and its Member States act in line with development objectives (Article 208 TFEU) as described by, *inter alia*, the **European Consensus on Development**¹⁰ and the **Agenda for Change**¹¹ as well as the guidelines of the Organisation for Economic Co-operation and Development's (OECD) Development Assistance Committee¹² (DAC), as appropriate.

The **link between security and development** has been recognised both at European and at international level.¹³ The 2005 *European Consensus on Development* already recognised this link, which is central to maximising the effectiveness of the EU's external and development action. Supporting partner countries' security systems, as part of a broader reform process to provide effective and accountable security to the State and to individuals, contributes to the EU's objectives of inclusive and sustainable development, state-building and the rule of law.

Drawing on the work on security systems pioneered by the OECD in 2008¹⁴, four broad categories composing the security sector in a State can be identified:

- i. State institutions with a formal mandate to ensure the safety of the State and its citizens against violence and coercion. This includes armed forces, police, paramilitary forces, intelligence services, border guards, customs authorities, etc.;
- ii. Civil authorities appointed for the control and oversight of these institutions. This includes the parliament, ministries of defence, interior and foreign affairs, national security agencies, and certain non-state actors;
- iii. Criminal justice agencies. This includes ministries of justice, prosecutorial and investigation services, the judiciary and courts, human rights institutions, and traditional and customary justice authorities;

¹⁰ Joint declaration by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on the development policy of the European Union entitled "The European Consensus", Official Journal C 46 of 24.2.2006

¹¹ COM(2011) 637 and Council conclusions *Increasing the Impact of EU Development Policy: an Agenda for Change*, 3166th Foreign Affairs Council meeting, Brussels, 14 May 2012

¹² <http://www.oecd.org/dac/dacguidelinesandreferenceseries.htm>

¹³ The EU Council conclusions of 19 November 2007 stated that the nexus between development and security should inform Union strategies and policies in order to contribute to policy coherence for development and to the coherence of the EU external action in general. See also the World Bank's World Development Report (Conflict, Security, and Development), 2011

¹⁴ *The OECD DAC Handbook on Security System Reform*, OECD: Paris, 25 February 2008. See also DG DEVCO 2012 "Inspiring change; EU support to rule of law, justice and security sector reform".

- iv. Non-State security actors including customary authorities, traditional courts, non-state bodies, private military and security companies, etc.

Different instruments and approaches are needed to ensure an appropriate approach to security sector reform, which is “a core element of multidimensional peacekeeping and peacebuilding, essential for addressing the roots of conflict and building the foundations of long-term peace and development [whose aim] is to help ensure people are safer through effective and accountable security institutions, that operate under civilian control within a framework of the rule of law and human rights.”¹⁵

A working security sector, which comprises the different categories mentioned above, is essential for “the consolidation of peace and stability, promoting poverty reduction, rule of law and good governance, extending legitimate state authority, and preventing countries from relapsing into conflict.”¹⁶ Indeed, human security includes people-centred, multi-sectoral, comprehensive, context-specific and prevention-oriented approaches. This is especially the case when it is clear that without security, access to the people most at risk of being left behind in conflict settings is limited, and effective outcomes of either humanitarian or development work are less likely.¹⁷ The European Council conclusions of 19/20 December 2013 emphasised “the importance of supporting partner countries and regional organisations, through providing training, advice, equipment and resources where appropriate, so that they can increasingly prevent or manage crises by themselves”.¹⁸

The adoption of the **United Nations’ (UN) 2030 Agenda for Sustainable Development**¹⁹ and its **Sustainable Development Goal**²⁰ (SDG) 16 on ‘peace and justice’ underlines the importance of promoting peaceful and inclusive societies, the provision of access to justice for all, and building effective, accountable institutions at all levels. SDG 16 emphasises the need to strengthen relevant national institutions, including through international cooperation for building capacity at all levels, in particular in developing countries, to, *inter alia*, prevent violence and combat terrorism and crime. In particular in fragile and conflict-affected States, channelling investments in line with development effectiveness principles would help to address the root causes of conflict and fragility.

The EU is a major supporter of the ‘**New Deal for Engagement in Fragile States**’²¹ adopted in Busan in 2011; this commitment was reiterated in the context of Agenda 2030 in the Stockholm Declaration of 4 April 2016.²² Strengthening the security-development nexus is an essential element of the New Deal, as is the commitment to country ownership. The European Parliament’s resolution on the global development framework after 2015 highlights the importance of the ‘New Deal’ and insists on a long-term commitment that prioritises

¹⁵ <http://www.un.org/en/peacekeeping/issues/security.shtml> See also *Securing States and societies: strengthening the United Nations comprehensive support to security sector reform*, Report of the Secretary-General, A/67/970–S/2013/480 of 13 August 2013

¹⁶ Ibid.

¹⁷ Public consultation: contribution by VOICE

¹⁸ https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/140245.pdf

¹⁹ <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

²⁰ Sustainable Development Goal 16: promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

²¹ The EU endorsed the New Deal for engagement in fragile states, one of the main Building Blocks of the 4th High Level Forum on Aid Effectiveness in Busan in November 2011 (see <http://www.pbsbdialogue.org/en/>)

²² Stockholm Declaration: Addressing Fragility and Building Peace in a Changing World

“security sector reform and the establishment of the rule of law and democratic institutions”.²³

There is a need for mutually reinforcing interventions in the areas of security and development.²⁴ Today’s challenges show that additional efforts are needed to link development cooperation with peace and security support. The narrative of both the EU’s security and development cooperation is changing.

The Commission has taken initiatives pertaining to the security-development nexus for several years.²⁵ The Union already finances a multitude of actions in peace-building and in the field of capacity building in support of security and development. Over the period 2001-2009, the Commission contracted over EUR 1 billion in interventions related to support for security and justice sector reform in partner countries, with six main core areas: law enforcement; border management; justice reform; Disarmament, Demobilisation, Reintegration (DDR); civilian management; and civilian oversight. Over 105 countries benefitted from security-related interventions, with 85% of the funding concentrated in 23 countries.

The EU’s external financing instruments – comprising both geographic cooperation with developing countries and horizontal crisis response – have focused on supporting security sector reform with a civilian objective primarily. In the framework of the public consultation, 88% of the respondents agreed that the security-development nexus should be better integrated in EU support strategies in order to better contribute to sustainable development in partner countries. Some contributions²⁶ expressed that within the process of policy coherence and integration, there should be a clear division of labour and mandates between civilian and military actors, while the integrity of each policy and its respective objectives and budget are safeguarded.

The EU has already financed, through the Instrument contributing to Stability and Peace²⁷ (IcSP) and other external action instruments²⁸, the provision of equipment for the benefit of civilian security forces. Examples include the provision of Communication and Information System (CIS) equipment, vehicles, or infrastructures for the Cameroon Border Guards and Gendarmerie. Through the European Neighbourhood Instrument²⁹ (ENI), the Union has also supported security actors in neighbourhood countries in the context of security sector reform (SSR) such as the technical assistance to the Lebanese security sector. Links to Common Security and Defence Policy (CSDP) missions/operations exist, since it is through them that the EU advises, mentors and trains security actors of partner countries and organisations, be they civilian or military.

²³ 2014/2143 (INI)

²⁴ See Joint Communication of 28 April 2015 from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy on ‘Capacity building in support of security and development’, JOIN(2015) 17 final

²⁵ See, for example, the 2011 Communication from the Commission on Conflict Prevention (COM(2011) 211)

²⁶ Public consultation: contribution by ACT Alliance Advocacy to the European Union.

²⁷ Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace

²⁸ For example: IPA II, ENI

²⁹ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014

Today's challenges show that **additional efforts are needed** improve the functioning of security forces in a manner consistent with the respect for human rights, democracy, the rule of law and good governance principles. These can contribute to the objective of fostering sustainable development, provided appropriate trainings are imparted.

Current challenges at the borders of the European Union but also in Sub-Saharan Africa expose three realities: 1) Today's security challenges need a comprehensive approach where security and development are closely linked; 2) No single country can protect itself against these challenges on its own: the EU as such has to display an even greater effort in enhancing and developing its cooperation with partners; 3) Challenges are acute and the EU favours supporting partners' ability to prevent or manage conflicts by themselves.

1.2. GAP IN CURRENT EU EXTERNAL ACTIONS INSTRUMENTS: THE MISSING LINK

At present, none of the existing financing instruments within the field of external action explicitly allows for building the capacity of the military in partner countries in order to contribute to sustainable development, despite urgency on the ground. This hampers the EU's ability to achieve external action objectives, including **fostering conditions for peace, human security and sustainable development**. The inability to finance capacity building in the security sector (both equipment and training) impinges on partners' security and wellbeing, on the humanitarian and development situation of partner countries.

This shortfall affects the efficiency and sustainability of the Union's external action. Capacity building in support of security and development (CBSD) aims to tackle this shortfall and enable the Union to enhance the capacity of the military actors in partner countries to ensure human security in their countries.

In a globally deteriorating security environment, the limitations of the current EU toolbox of external action instruments hamper its ability to comprehensively address the issue, improve cooperation, in particular with partner countries' armed forces, and thus effectively contribute to development efforts. This constitutes a missed opportunity to ensure a maximum impact of EU development cooperation policy. In order to address this gap, the possibilities within the Union's primary law need to be clarified and additional funds should be endowed to this initiative. This would allow to contribute to the sustainable development of partner countries in fragile or crisis situations.

The Joint Communication on CBSD illustrated that a significant part of external assistance programmes funded by the EU's development and technical cooperation instruments already tackles security and development challenges. In the current Multiannual Financial Framework (MFF) 2014-2020, the EU has programmed actions in the governance sector in at least 69 countries around the world whilst there are rule of law programmes foreseen or ongoing in 38 countries and programmes with a clear security component in 16 countries.

The EU engages in security, peace-building and conflict prevention through a multiplicity of channels and different instruments. The Union has several instruments at its disposal to support its external action including³⁰: the Development Cooperation Instrument³¹ (DCI), the

³⁰ Heading IV of the general budget of the Union includes other instruments (e.g. Macro-Financial Assistance, the Instrument for Nuclear Safety and Cooperation or humanitarian aid), which are however not relevant in this context.

³¹ Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014

European Instrument for Democracy and Human Rights Worldwide³² (EIDHR), the European Neighbourhood Instrument³³ (ENI), the Instrument contributing to Stability and Peace³⁴ (IcSP), the Instrument for Pre-accession Assistance³⁵ (IPA II), or the Partnership Instrument for cooperation with third countries³⁶ (PI), in addition to the extra-budgetary European Development Fund³⁷ (EDF).

These basic acts lay down the criteria and circumstances under which funding can be provided and thus programmed. Programming of the two main development instruments under the current MFF, i.e. the 11th EDF and the DCI, for the period 2014-2020 is based on the key policy principles of the ‘Agenda for Change’: ownership and inclusiveness, comprehensiveness and coherence, flexibility to adapt to different contexts, coordination with Member States and other donors as well as consultation with humanitarian actors. Programming starts with an assessment of the overall situation of the partner country with a view to defining a vision regarding the EU’s relationship with that country. In the case of fragile and conflict affected States it is particularly important for the EU to deliver as one, in order to ensure complementarity between instruments and consistency with overall EU external action.

The DCI includes specific provisions restricting the financing of military-related equipment activities. It stipulates, “Union assistance under this Regulation shall not be used to finance the procurement of arms or ammunition, or operations having military or defence purposes”. It moreover states that “Actions under geographic programmes shall be designed so as to fulfil the criteria for ODA [official development assistance] established by the OECD/DAC”; it also establishes that “at least 95% of the expenditure foreseen under the thematic programmes and at least 90% of the expenditure foreseen under the Pan-African programme shall fulfil the criteria for ODA established by the OECD/DAC”.

The recently revised ODA Reporting Directives in the field of peace and security³⁸ provide greater clarity and further develop the scope of ODA rules for the security sector (e.g. support to the police, security sector reform, countering violent extremism, control of small arms and light weapons). They maintain several safeguards, notably the principally civilian nature of ODA, although support to the military can be recognised as ODA in exceptional and clearly delimited circumstances. By contrast, the direct participation in military expenditures remains not eligible. The formulation of CBSD actions should explicitly build on how they can contribute to the EU’s development objectives. Taking into account the objectives of the Union’s development cooperation, i.e. to contribute to the pursuit of the sustainable development of developing countries, financing of the military, beyond ODA, would only be possible where State institutions have become dysfunctional for the achievement of peaceful and inclusive societies, and where a rule of law objective is pursued with the aim of re-establishing a functioning civilian rule.

³² Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014

³³ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014

³⁴ Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014

³⁵ Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014

³⁶ Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014

³⁷ For the 11th EDF Internal Agreement, see OJ L 210, 6.8.2013, p. 1.

³⁸ <http://www.oecd.org/dac/DAC-HLM-Communique-2016.pdf>

1.3. PROBLEM DEFINITION: WHO IS AFFECTED BY THE PROBLEM AND HOW?

The Joint Communication on CBSD analysed how EU support to help build the capacities of partners, and thus contribute to stability, security and development, could be improved. The Communication identified gaps in the EU's ability to support building the capacities of partners in the security sector. The Union's external financing instruments support a multitude of actions in the field of capacity building in support of security and development, including effective civilian administration and civilian oversight over the security system. However, the Communication concluded, **“there is currently no EU budget instrument designed to provide a comprehensive financing to security capacity building in partner countries, in particular its military component”**.³⁹ The Communication thus highlighted the Union's apparent inability to provide funding to military actors from the general budget of the Union.

The Joint Communication on CBSD of April 2015 and the ensuing Council conclusions confirmed that enabling partner countries and regional organisations to prevent and manage crises by themselves through support to their security capacity building was an important tool for delivering on the EU's global ambitions, including promoting sustainable development and poverty reduction. Taking into account that by 2030, 62% of the global poor are expected to live in fragile states⁴⁰, poverty reduction will greatly depend on the ability to effectively address the root causes of fragility and notably the lack of security, including by working directly with military actors.

In the context of fragile states, development depends as much on stronger economic foundations and improvement of social sectors as on security, justice and governance. The Advisory Group of Experts on UN peacebuilding⁴¹ pointed out that there is a **need for greater coherence across development, political and security actors** in order to sustain peace, one of the key objective and challenge for development in fragile states in line with the Sustainable Development Goals (SDGs). The Advisory Group of Experts also states that more development investment and focus is needed in the political, security and justice dimensions of the Peacebuilding and Statebuilding Goals, as part of the **New Deal of Engagement in Fragile States**, adopted by the G7+ group of 20 fragile and conflict-affected countries, development partners and international organisations, including the EU. The 2011 World Bank's 'World Development Report on Conflict, Security and Development'⁴² explains how violence and conflict are a development problem. Authors of the report, which is based on country-level surveys, underline that **linking military and policing assistance with justice assistance is crucial because their lack of connection have been the source of problems in many fragile countries**.

There are a number of concrete examples to illustrate the relationship between military capacity and sustainable development. The World Bank's 2011 *World Development Report* provides examples such as the success of joint teams drawn from both the police and the military in Colombia to prevent violence or the cooperation of the military with Non-Governmental Organisations (NGOs), in Haiti to repair water management networks. Another example is the Security Sector Development Programme (SSDP) between the

³⁹ JOIN(2015) 17, p. 8

⁴⁰ See OECD's *States of Fragility* report (Meeting Post-2015 Ambitions), 2015

⁴¹ See Advisory Group of Experts on UN peacebuilding, *The Challenge of Sustaining the Peace*, 2015

⁴² See World Bank, *World Development Report: Conflict, Security and Development*, 2011

Netherlands and Burundi, which focused on the armed force and the police to improve the legitimacy and effectiveness of the Burundi security sector.

In some fragile countries, armed forces under civilian oversight are instrumental to protect the population and ensure the integrity of the territory against threats such as incursions of armed or terrorist groups. Countries such as Niger and Chad are regularly attacked on their territory by Boko Haram, which undermines humanitarian and development efforts in these areas. This also leads to an increasing number of internally displaced persons (IDPs) in the region and a corresponding mobilisation of humanitarian funds, including from the EU, to address the needs of these IDPs and refugees. This finally undermines trade activities between the countries in the same region (Nigeria and Chad for instance). In countries where armed forces are not properly established as part of the State, they do not exercise full control over the country territory; armed groups often substitute the military until appropriate disarmament, remobilisation, and reintegration (DDR) processes are carried out in the context of security sector reform. Until this process has started, disorder is often at its utmost: Somalia, Central African Republic, Mali, and Libya are some well-known examples.

The problem consequently affects partner countries directly, whose security sector may be in need of training or equipment (i.e. capacity building) in the context of security sector reform. Not addressing critical operational needs of partners hampers the achievement of essential objectives for development, i.e. to foster conditions for sustainable peace and human security. The improvement of the functioning of military actors and the strengthening of their governance, particularly in fragile contexts and countries emerging from conflict, contributes to peace, human security and stability, and thereby to the achievement of the Sustainable Development Goals (SDGs).

Needs identified by CSDP missions that could not be covered by partner countries have included communication or protective equipment against mines and explosive devices, as well as ambulances, water tanks and fuel trucks, accommodation, food and medical support. The EU Training Mission (EUTM) in Somalia⁴³ identified gaps including: inadequate living conditions and teaching facilities, lack of basic support (e.g. water, food, beds, mattresses and blankets). In some cases, *ad hoc* solutions can be found, such as the provision of vehicles by other donors in Mali, but this is not consistent, nor is it a sustainable solution. Where *ad hoc* funding is not possible, alternative funding sources cannot always be identified to fill the gaps.

In the public consultation, 85% of the respondents agreed that strengthening the governance of military actors, particularly in fragile countries and countries emerging from conflict could lead to stability and the achievement of sustainable development goals.

The CBSD initiative aims to enhance the effectiveness and efficiency of development policy in view of ensuring sustainable development. The initiative is framed by the elements contributing to an EU-wide strategic framework for supporting Security Sector Reform (SSR), which provides the larger governance system of the security actors.

In view of ongoing and developing conflicts, threats and instabilities in the EU's immediate and wider neighbourhood, **it is necessary to address the CBSD issue urgently**. This sense

⁴³ JOIN (2015) 17, p. 6

of urgency has been repeatedly underlined by several Member States over the past two years. Enabling a **quick operationalisation** is a major criterion when comparing the options.

Therefore, **a short-term option should be privileged over any mid- to long-term option.**

1.4. PILOT PROJECTS: ILLUSTRATION OF LIMITATIONS

Further to the Joint Communication on CBSD and in order to understand the situation better, the Council invited Commission services and the EEAS to present by summer 2015 an implementation plan with concrete measures and actors involved.⁴⁴

Mali and Somalia were identified as ‘pilot cases’ in order to better define capacity building in support of security and development (CBSD) as well as to clearly identify what can and cannot be done under the current instruments. The list of projects included activities, which the EU can, and was already doing (e.g. support to internal security forces and rule of law/justice, reconciliation and peace resolution).

Those activities for which it was not possible to find financing under the general budget of the Union and the EDF during the timeframe of the exercise were those linked to support to the military with the military as the main beneficiary, such as a medical facility for militaries (albeit opened also to civilians) to be administered by a Ministry of Defence or information technology (IT) systems (logistic information, human resources) for a Ministry of Defence.

More specifically, out of 13 ‘pilot projects’, eight found financing by EU instruments, i.e. projects for which EU instruments had already previously been used for financing, mainly in support of good governance. Two projects have been funded by EU Member States bilaterally, and one has been considered no longer relevant due to the delay in finding a financing solution.

Projects, which could not be funded by the external financing instruments under the Union’s budget, were related to military capacity building as such.

1.5. CSDP: ILLUSTRATION OF LIMITATIONS

Both civilian and military CSDP missions and operations (and in particular EU training missions) are an essential component within the EU’s comprehensive approach to crisis management in third countries⁴⁵ and partly fulfil the training pillar of capacity building in support of security and development for both defence and civilian security personnel. CSDP missions can train, recruit and provide bespoke training to higher management and executive levels including advice and mentoring at ministerial level.

Resources for EU CSDP military operations are financed by the participating EU Member States, and through the Athena mechanism⁴⁶, which was designed to manage the financing of common costs relating to EU military operations under the CSDP. These costs concern, *inter*

⁴⁴ See Council conclusions of May 2015

⁴⁵ JOIN(2013) 30 final of 11 December 2013

⁴⁶ Article 41 TEU sets the principles for the financing of EU civilian and military crisis management operations. The common costs of such operations are currently covered by Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP, OJ L 84, 28.03.2015

alia, headquarters' implementation and running costs, infrastructure, logistics and mission support. Currently, Athena does not cover the costs incurred by a partner country supported through a mission or operation.

Some CSDP missions have reported that the personnel they have trained cannot manoeuvre and operate in the field because of a lack of essential equipment. In particular, the transport, medical, command and control (communications and the operationalisation of command and leadership) and logistic functions remain areas where equipment is deficient or non-existent in many countries where CSDP training missions are active.

CSDP missions and their budgets are not designed to provide equipment to security sector actors of partner countries; the expenditure for military operations to be financed pursuant to Article 41(2) TEU by the Athena mechanism, concerns expenditure arising out of the functioning and the equipment of the EU CSDP missions/operations. CSDP missions provide training to military and civilian security forces of third countries. However, due to how the Athena mechanism is designed today, they cannot provide the equipment and help ensure its sustainability for training purposes or to follow up on the operationalisation of the defence units they have trained.

The effectiveness of the CSDP missions/operations may also be compromised by difficulties arising from lack of coordination and joint planning amongst the different EU actors and insufficient articulation between short- and long-term actions.

1.6. CONTEXT PROVIDED BY EU PRIMARY LAW

The Union can only act in areas in which the Member States have transferred powers to the Union (Articles 5(2) TEU, 2(1) TFEU). A measure therefore always has to be based on the correct legal basis, which is to be chosen on the basis of the aim and the content of the measure. It follows that it is necessary to determine the main or the predominant purpose or component of the measure.⁴⁷

Considering the scope of development cooperation, the financing of capacity building (training and equipment support) in the security sector on the basis of Article 209 TFEU is not *per se* excluded only because of the military nature of the beneficiary.⁴⁸ Being based on Article 209 TFEU, the intended measure has to come within the scope of the Union's development cooperation policy, which is interpreted broadly in line with the Treaties and settled case law.⁴⁹ By contrast, a measure does not fall within the Union's development cooperation policy if it has as its main purpose the implementation of another policy.⁵⁰

In practice, the '**centre of gravity approach**' applies, i.e. a measure will have as a legal basis either the Common Foreign and Security Policy (CFSP) or Articles 209/212 TFEU, depending on the most important component within it. Building military/defence capacities for other purposes would encroach on CFSP in breach of Article 40 TEU. A measure which has a strong component in relation to the financing of the military of third countries for defence-related purposes, would thus come under the Union's CFSP and cannot be based at

⁴⁷ C-377/12, *Commission v Council (Philippines)*, paragraph 34

⁴⁸ See also JOIN (2015) 17 of 28 April 2015, p. 7; see also below on the OECD/DAC Reporting Directives in the field of peace and security

⁴⁹ C-377/12, *European Commission v Council (PCA Philippines)*, paragraph 37

⁵⁰ See ECJ, C-377/12, *Commission v Council (Philippines)*, paragraph 44

the same time on another non-CFSP legal basis.⁵¹ A CFSP or CSDP measure would be subject to Article 41(2) TEU, which reads: “Operating expenditure to which the implementation of this Chapter gives rise shall [...] be charged to the Union’s budget, except for such expenditure arising from operations having military or defence implications [...]”

CBSD measures under this initiative would be carried out in the context of a wider security sector reform, in line with the overarching objective of achieving sustainable development.

1.7. THE EU’S NEED TO ACT AND JUSTIFICATION (SUBSIDIARITY)

As challenges rise, the need for the Union to act in a coherent manner increases. Member States have called on the Commission and the High Representative to present proposals that would allow the Union to engage comprehensively in capacity building in support of security and development. Member States understand this to be an essential part of EU support to security sector reform.

The 2007 Council conclusions on an EU response to situations of fragility called “on the Commission, in close cooperation with the Member States, to map Community and bilateral financial instrument, as well as Member States’ intervention possibilities”.⁵² In December 2013, the European Council further emphasised “the importance of supporting partner countries and regional organisations, through providing training, advice, equipment and resources where appropriate, so that they can increasingly prevent or manage crises by themselves”.⁵³

In 2014 and in line with the European Council conclusions of December 2013 on security and defence, the Council reiterated “the need to enhance the effectiveness of CSDP [...] This requires systematic cooperation and coordination within the EU and among its Member States, underlining the importance of addressing the need to sustain sufficient expenditures related to security and defence, and coherent and effective use of EU instruments and policies”⁵⁴; furthermore, the Council invited the High Representative and the Commission “to present a joint proposal for a policy approach for concrete implementation”⁵⁵ which was followed up by the Joint Communication on capacity building in support of security and development in 2015.

Development cooperation policy is a parallel competence (Article 4(4) TFEU), i.e. the exercise of the Union’s competence does not result in Member States being prevented from exercising theirs. Furthermore, the Union’s operations and those of the Member States shall complement and reinforce each other (Article 208(1) TFEU). The EU and its Member States have a role to play through the comprehensive approach to preventing and managing conflicts and their causes.⁵⁶

⁵¹ C-91/05, *Commission v Council (ECOWAS)*, in relation to ex-Article 47 TEU; Judgment of the Court of 11 June 1991 - *Commission of the European Communities v Council of the European Communities* – Case C-300/89

⁵² http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/97177.pdf

⁵³ https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/140245.pdf

⁵⁴ http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/foraff/145824.pdf

⁵⁵ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/145816.pdf

⁵⁶ JOIN(2013) 30 final of 11 December 2013

EU action is necessary and justified both on the grounds of the objectives laid down in the Treaties and on the subsidiarity principle. Comprehensive and flexible EU support to the security sector would have the benefit of allowing short and longer-term actions to bring on board all security actors in a country, and would allow for better coordination of such support. Interventions at EU level can better achieve security and stability and act as a driver for more effective international efforts around security and development. The political objective of delivering security for the EU cannot be achieved without effective engagement with partners in non-EU countries and international organisations.

All options identified in this document comply with the principle of proportionality in so far as they are limited to what is necessary in order to attain the general and specific objectives described below.

1.8. BASELINE SCENARIO

The baseline scenario equals the current *status quo*, i.e. doing nothing to address the identified problem. Not addressing the problem would leave the current legal and financial framework unchanged, perpetuating the lack of clarity and ensuing gap in the current set of EU external action instruments. This option would not address the current limitations of the EU to engage comprehensively in capacity building in support of security and development, which is an essential part of EU support to security sector reform and an important dimension for the effectiveness and sustainability of CSDP missions.

If the problem is not tackled, the **effectiveness of the Union's actions** and its ability to contribute to stability and the **achievement of the Sustainable Development Goals would be compromised**, especially in fragile countries.

Events in Europe's neighbourhood and in Africa point to a dramatic and deteriorating global security situation, with more than 1.5 billion people living in fragile and conflict affected regions worldwide. The World Bank estimates that half of the world's poor will live in countries affected by fragility, conflict and violence by 2030. The particular challenges in fragile states require rapid, continuous and integrated efforts, aiming at sustainable development.

In some countries, especially fragile ones, security needs to be provided and guaranteed by military actors. Support to military actors would thus contribute to stabilisation and development efforts. CBSD interventions would need to be underpinned by human security principles and be based on a thorough contextual analysis and risk management frameworks.

Long-term engagement in governance, peace and capacity building, is instrumental to ensuring long-term sustainable development, peaceful and resilient societies. Failure to address the capacity building of armed forces will reduce their ability to **contribute to preventing and managing crises**. Lack of EU support in CBSD would also lead to limited capacity, lack of accountability and lack of professional skills of military actors.

In addition, in fragile contexts, weak military actors are often partly responsible for the inability of a state to prevent and manage crises or, worse still, may contribute to instability and insecurity. In several areas in the Sahel, in the Horn of Africa and in the Middle East, years of efforts and investments to alleviate poverty have been undermined and reversed by crises and have had important and negative humanitarian and developmental costs.

In post-conflict situations, military actors can also help guarantee a secure environment for the reconstruction of basic infrastructures and the longer-term recovery by facilitating the delivery of services by the state and humanitarian actors. **In fragile contexts therefore, capacity building in support of security and development can contribute to minimise the risks posed by crises and insecurity on years of development efforts.** Provided the objective is clear and the actions clearly delimited, CBSD can contribute to maximising the positive impacts of development interventions in a recovery context, to address factors of fragility, and to help build resilience. In short, CBSD measures can have a catalytic effect.

Perpetuating the baseline scenario should be discarded; failure to act would imply loss of EU credibility as well as missed opportunity to create the conditions for enhancing the effectiveness and improving the delivery of long-term external assistance.

2. OBJECTIVES: WHAT SHOULD BE ACHIEVED?

2.1. GENERAL OBJECTIVES

The general objectives of this initiative are those set out in Articles 21 TEU and 208 TFEU, and in particular:

- to ensure that the EU's development assistance to fragile developing countries is not undermined by situations of instability and conflict, by enabling all security actors, including the military, to ensure stability, peace and law and order;
- to foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty, whilst complying with the commitments and taking into account the objectives approved in the context of the United Nations and other relevant international organisations.

2.2. SPECIFIC OBJECTIVES

The specific objectives are:

- to contribute to improving the capacity of partners to prevent and manage crises by themselves;
- to contribute to improving the effectiveness of security actors, including the military, within partner countries through the delivery of capacity building in support of security and development; and
- to contribute to ensuring the respect of the rule of law, good governance, as well as enhanced civilian control and oversight over the military in third countries.

In concrete terms, **EU financial and technical assistance for security actors, including the military, would cover:**

- capacity building programmes in support of security and development through training, mentoring and advice, aimed at building and strengthening military actors' capacity in order to contribute to the achievement of peaceful and inclusive societies,

including through creating more effective, accountable and transparent military institutions;

- the provision of non-lethal equipment (i.e. equipment excluding arms and ammunition); and
- infrastructure improvements.

In order to contribute to sustainable development and in particular to the achievement of stable, peaceful and inclusive societies, it is essential **to promote good governance in the public administration, including the ministries of defence and the armed forces**, which are an integral part of the executive branch of Government. Typical good governance support activities are those aimed at enhancing **efficiency, transparency, accountability, civilian oversight and democratic control of the armed forces**, in particular with regard to the legal framework; organisation and administration, including standards and ethics; human resources management (e.g. recruitment, training, remuneration, career development, disciplinary measures, retirement); asset management; financial management, including budget and procurement; internal control and inspection, reporting, audit, judicial oversight, Parliamentary control; public communication, media relations and interaction with civil society.

EU financial support may cover the performance by the military of development and human security tasks, notably reconstruction/rehabilitation of civil infrastructure (e.g. roads, bridges, schools, hospitals), mine clearance, removal and disposal of explosive remnants of war and unexploded ordinance, disarmament and demobilisation of ex-combatants, collection and destruction of small arms and light weapons, civil protection tasks in emergencies, as well as border and migration management activities when the responsible national body is of military nature or is unable to ensure these functions.

With regard to specific pieces of equipment and infrastructure upgrade interventions for the military, it may cover IT systems (including software), transport vehicles (troops, cargo...), communication means, uniforms and protective gear, surveillance and mine clearance equipment, training-related equipment and facilities, functional infrastructure (buildings, barracks...), medical and sport facilities, water and sanitation infrastructure, power supply, logistic and storage facilities, furniture, stationery.

CBSD assistance measures should be underpinned by the following **principles**: (a) ownership by the partner country, alignment to the partner's long-term development strategies, harmonisation of support and coordination of interventions among actors to avoid duplication, focus on results and mutual accountability (development effectiveness principles); (b) respect for human rights and adherence to international humanitarian law; and (c) coherence with other EU actions as part of a broader EU comprehensive approach to external conflict and crises.⁵⁷

The financing of actions should be feasible as soon as possible with a worldwide application and respecting existing budgetary possibilities.

⁵⁷ JOIN(2013) 30 final of 11 December 2013

2.3. RISKS AND MITIGATING MEASURES

Support to military actors entails a wide range of risks (contextual, programmatic, reputational and institutional) that may hamper the effectiveness and sustainability of CBSD support. Some contributions to the public consultation⁵⁸ have underlined specific risks attached to CBSD and corresponding need to manage them.

To ensure the efficiency of the Union's development interventions: CBSD measures should enhance the effectiveness and efficiency of development policy. **Capacity building in support of security and development should exclude any activities, which result in recurrent military expenditure, the procurement of arms and ammunition, and training solely designed to enhance the fighting capacity of the armed forces would not be eligible for EU financial support.**

Whilst in worst-case scenarios, equipment provided could be misused and/or transferred to unfriendly actors (e.g. non-state armed groups that seize the equipment), **the exclusion of the procurement of arms and ammunition, recurrent military expenditures, and training solely designed to contribute to the fighting capacity of the armed forces, would de facto limit these risks.** Moreover, capacity support programmes in countries where there are serious threats against State institutions, would contribute to strengthen the effectiveness and efficiency of development policy.

Additional **mitigation measures** may include assurances and compliance criteria from the government concerned, training on human rights and humanitarian law in line with **the UN Charter and principles of international law**, complementary interventions (on oversight for example), or communication strategies to deal with reputational risks. Maintaining a sector and political dialogue with the ministries of defence and the government, during and after the lifespan of CBSD projects, should also be key to managing risks. Possible risks and the effectiveness of the mitigation measures would be continuously monitored during the implementation of the projects.

In addition, in accordance with the Joint Communication on capacity building in support of security and development that called for the development of risk management methodology on EU support to the security sector of partner countries or organisations, a specific risk assessment will be conducted in the context of the SSR policy framework. This will include assessing risks on human rights and conflict sensitivity analysis. Specific risk assessment modalities applicable to CBSD may include assessments based on the **EU early warning system**, and **conflict risk** and **conflict analysis frameworks** to develop a shared understanding and regular monitoring of the situation. Finally, the commitment to ensure the **transparency and impact** of peace and security spending and tracking its contribution to achieve SDG 16 targets can address what some stakeholders could perceive as the risk of 'securitisation of development'.

Lessons learned from experiences with regard to budget support risk management frameworks as well as emerging practice of CSDP mission performance benchmarks will be valuable contributions to this exercise.

As part of those modalities, EU support to CBSD should be grounded in **context analysis/conflict** and be **conflict sensitive** (context-specific analysis). The 'do-no-harm'

⁵⁸ Public consultation: contribution by European Peacebuilding Liaison Office (EPLO)

principle will be a key underlying principle for CBSD. An in depth analysis of the political and security situation of the country concerned and potential associated risks would have to take place in a timely manner with a view to determine the Union's ability to assist. EU Delegations, especially in countries where the EU does not have a CSDP presence, should be closely involved. That assessment would cover, *inter alia*, resource implications, stock-taking of other actors' efforts, planned assistance to engage in a capacity building effort, an assessment of the specific needs of the country, as well as objectives and benchmarks to monitor progress. Other important aspects such as local ownership by the partner country, absorption capacity, and sustainability in the medium and long term as well as articulation with longer-term broader SSR programmes in the governance sector would be part of that context specific analysis.

2.4. CONSISTENCY WITH EU POLICIES

The 'security-development nexus' is a key underlying principle in the application of the EU's comprehensive approach to external conflicts and crises. The present initiative fits with the ambition to bring together EU tools on major challenges, as outlined in the Joint Communication on 'The EU's comprehensive approach to external conflict and crisis'⁵⁹ and the subsequent Council conclusions⁶⁰. The comprehensive approach applies to all phases of the conflict cycle, including prevention, early warning, crisis management, stabilisation and longer-term peace-building leading to development.

Coordination is a key factor for successful delivery of capacity building in support of security and development in partner countries. The initiative would ensure: (a) coherence with other EU actions as part of a broader EU comprehensive approach to external conflict and crises; (b) consistency, coordination and complementarity of the different short-term and long-term capabilities and instruments, based on a common strategic vision.

The different actions under the proposed initiative should be designed **in line with the new EU-wide security sector reform** framework, including monitoring and evaluation principles and a dedicated risk management framework. Programmes would have to set out how they fit with relevant EU country or regional strategies, and be programmed in a manner that ensures involvement of all relevant EU actors.

Besides applying the framework on Security Sector Reform and regardless of the option retained, the following practical measures in particular could improve coordination:

- a) consultation and information sharing in relation to ongoing and planned capacity building support activities conducted through the bilateral development cooperation of Member States and the Union's assistance programmes (Article 210 TFEU);
- b) information sharing with the EU's multilateral partners (including the UN, NATO and Organisation for Security and Cooperation in Europe (OSCE) and other third countries and strategic partners;

⁵⁹ JOIN(2013) 30 final of 11 December 2013

⁶⁰ Council conclusions 9644/14 of 12 May 2014

- c) better use of the Political Framework for Crisis Approach process, developed to support decision-making by the Council on CSDP operations, to intensify the ties between services in charge of development cooperation and security policy matters;
- d) better use by CSDP actions of development cooperation expertise (equally, development programmes can benefit from CSDP and Member State expertise);
- e) more regular and systematic interaction between EU Delegations and the CSDP missions and/or operations at partner country level.

The selected option should allow for improved interaction between EU Delegations and CSDP missions/operations at partner country level enhancing the effectiveness of the various EU activities for capacity building in support of security and development and fostering synergies between them.

3. POLICY OPTIONS TO ACHIEVE THE OBJECTIVES

3.1. IDENTIFYING THE POLICY OPTIONS

This section examines different policy options to meet the specific objectives of this initiative. Some of these options had already been identified in the Joint Communication, while others have been added subsequently as part of the reflection process, including the public consultation.

The options considered range from the current *status quo* (baseline), i.e. doing nothing to address identified needs, which is however discarded upfront, to adjusting existing financing mechanisms within or outside the general budget of the Union, to developing an EU fully-fledged comprehensive dedicated financing instrument. The options consequently imply different degrees of change to existing secondary legislation.

Options entail different timeframes: short-, mid- and long-term. Favouring a short-term option is crucial in order to address the immediate challenges. A short-term option would consist of an adoption by the Commission of a proposal in 2016. Mid- to long-term options would imply adoption of a proposal by the Commission at the earliest in 2018.⁶¹

The analysis of the options is divided into two broad categories according to the source of financing: outside the general budget of the Union and within the general budget of the Union.

Options 4, 5 and 6 described below within the general budget of the Union would require the submission of a legislative proposal by the Commission to the co-legislators and would be adopted through an ordinary legislative procedure. Option 7 would require either individual and/or framework Council decisions.

Options outside of the general budget of the Union would be subject to different adoption procedures. For example, changes to the African Peace Facility (option 1) would have to be

⁶¹ This could take place as a possible follow up to the Mid-Term Review (MTR) of external action financing instruments, based on the recommendations of the MTR report due by the end of 2017.

formalised through an amendment to Council Regulation 2015/322 involving a Commission proposal to be adopted by the Council.

3.2. OPTIONS OUTSIDE THE GENERAL BUDGET OF THE UNION

- **Option 1: Adapting the African Peace Facility (APF):** This option would seek to address limitations linked to the scope, the geographical focus and the APF's regional approach.
- **Option 2: A new dedicated instrument outside the general budget of the Union,** could be comparable to the European Development Fund (EDF), but with a worldwide scope, so as to avoid the geographic limitations imposed by the EDF.
- **Option 3: Revision of the Athena mechanism:** A revision could seek to include costs incurred by partner countries in the costs covered by the Athena mechanism.

3.3. OPTIONS WITHIN THE GENERAL BUDGET OF THE UNION

- **Option 4: Adapting an existing EU instrument:** This option looks into the possible adaptation of the Instrument contributing to Stability and Peace (IcSP) by introducing new type of assistance measures within the scope of the IcSP Regulation. The adaptation of other external actions instruments such as the European Neighbourhood Instrument (ENI) or the Development Cooperation Instrument (DCI) can be discarded as the two latter instruments cannot provide the requested worldwide scope (DCI covers non-ACP developing countries and ENI is geared to EU neighbourhood countries).
- **Option 5: Facility based on existing EU instruments** (e.g. DCI, ENI, IcSP): This option would imply drawing on existing instruments from a policy-perspective and financially and can be discarded up-front, since the instruments would need to be amended in order to allow for the use of the military as partners.
- **Option 6: New dedicated instrument based on Articles 209 and 212 TFEU:** This option would consist of developing a new EU external financing instrument designed to address the security development nexus including the military dimension of CBSD.
- **Option 7: New instrument based on Article 28 TEU under CFSP**

3.4. DESCRIPTION OF THE POLICY OPTIONS

- *Options outside the general budget of the Union are:*

Option 1 – Adapting the African Peace Facility

Outside the general budget of the Union, the European Development Fund (EDF) provides financial resources to implement the EU's development cooperation policy with the African, Caribbean and Pacific (ACP) group of states under the Cotonou Partnership Agreement.⁶²

⁶² *Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part and the European Community and its Member States of the other part*, signed in Cotonou on 23.06.2000, revised in Luxembourg on 25 June 2005, revised in Ouagadougou on 22 June 2010

The African Peace Facility⁶³ (APF) was set up in 2003 under the EDF; it is to date the Union's most far-reaching instrument to address the security-development nexus in Africa, also providing support to military activities. Nonetheless, the APF remains an exceptional and temporary instrument and is subject to a number of limitations, notably in its geographical and exclusively regional coverage.

The primary purposes of the APF are to finance African-led military peace and security operations and to provide support to the African Peace and Security Architecture (APSA) and related initiatives under the Early Response Mechanism. The APF has a distinct continental and regional focus; its geographical scope is restricted to African countries that are members of the Cotonou Agreement, i.e. Sub-Saharan Africa, and its support is solely provided to or through the African Union and African regional organisations, not bilaterally to individual States. Assistance to the military, including equipment, can be provided under the APF, **only in support of regional operations**: multinational, African-led Peace Support Operations (PSOs). Furthermore, it is demand-driven, since EU financial support can only be considered at the request of the African Union. The procedure to provide funding under the APF is set out in Article 15 of Council Regulation (EU) 2015/322 for the current financial framework (2014-2020).⁶⁴ The list of non-eligible APF expenditure includes ammunition, arms and specific military equipment, spare parts for arms and military equipment, salaries and military training for soldiers.

Making use of the African Peace Facility to finance training and equipment would require a redesign of the APF, which would have to be negotiated within the ACP-EU framework and with the African Union and its Commission, which manages the Facility. Modifications to the current APF would have to be formalised through an amendment to Council Regulation 2015/322, following discussions with the African Union and its Commission, which manages the Facility. This latter process could be expected to take considerable time.

In addition, considering the current and expected budgetary pressure on the APF, which seriously challenges its financial sustainability, any extension of its scope to address additional needs would likely need to be accompanied by an increase of its financial allocation under the EDF.

Even if an adaptation of the APF in order to change its scope would be conceivable, funds could only be made available to countries, which are members of the ACP group. This means that the worldwide application, requested by EU Member States would not be possible.⁶⁵

Therefore, although amending the APF to make it more operational and geared to address possible needs in Africa could be envisaged, the inability to use it globally, leads this option to be discarded.

⁶³ Article 11 of the Cotonou Partnership Agreement on "Peace building policies, conflict prevention and resolution" and the relevant Council conclusions provide the legal basis for the APF; Decision No 3/2003 of the ACP-EC Council of Ministers of 11 December 2003 on the use of resources from the long-term development envelope of the 9th EDF for the creation of a Peace Facility for Africa, OJ L 345, 31.12.2003

⁶⁴ See Article 15 of Council Regulation (EU) 2015/322, OJ L 58, 3.3.2015, p. 1.

⁶⁵ The APF is funded by the EDF, an instrument which is exclusively for countries who are party to the Cotonou Agreement.

Option 2 – New dedicated instrument outside the general budget of the Union comparable to the European Development Fund (EDF)

An *ad hoc* CBSD instrument outside the general budget of the Union could be designed with a worldwide geographical scope and with no *ex ante* obligation to fulfil OECD/DAC requirements on ODA. It could support CBSD activities of civilian and military actors. It would be for the EU Member States to define possible limits on expenditure eligibility. These features, combined, would give the new instrument the flexibility to address existing needs anywhere.

Such an extra-budgetary option could be operationalised in two different ways, either within the CFSP framework or within a separate *ad hoc* legal intergovernmental framework (i.e. an agreement between EU Member States similar to that establishing the EDF⁶⁶). Either way, the operationalisation of this option would require a commitment from EU Member States to provide additional financial contributions. **This would prove difficult to secure since in the current economic context, Member States have repeatedly expressed a preference for a solution that stays within the limits of the current budgetary allocations.**

Moreover, this option would require a unanimous agreement of the EU Member States (in the form of an international agreement between EU Member States and, consequently, be subject to the respective lengthy national procedures required (e.g. ratification), unless provisional application has been agreed. **In view of the timing and the additional financial resources required, this option should be discarded.**

Option 3 – Revision of the Athena mechanism

Operating expenditure (functioning and equipment) to which Common Security and Defence Policy (CSDP) military operations give rise cannot be financed from the general budget of the Union. Costs are charged, by virtue of Article 41(2) TEU, to the Member States, in accordance with the Gross National Product Scale, unless the Council, acting unanimously, decides otherwise.

By its Decision 2015/528 of 27 March 2015 establishing the Athena mechanism, the Council decided that the Member States would finance the sole operating expenditure linked to the common costs of military operations.⁶⁷ This means that, regardless of their participation in a given CSDP military operation, 27 EU Member States contribute to the financing of the common costs of EU military operations through Athena on a GNP basis.

The remaining expenditure to which CSDP military operations (non-common costs) are charged to the contributing Member States follows, in principle, according to the rule “costs lie where they fall”. These common costs are in particular: (a) headquarters (HQ) implementation and running costs, including travel, IT systems, administration, public information, locally hired staff, Force Headquarters (FHQ) deployment and lodging; (b) for forces as a whole, infrastructure, medical services (in theatre), medical evacuation,

⁶⁶ For the 11th EDF Internal Agreement, see OJ L 210, 6.8.2013, p. 1.

⁶⁷ All Member States contribute to the financing of the Athena mechanism with the exception of Denmark.

identification, acquisition of information (satellite images); (c) reimbursements to/from NATO or other organisations (e.g. the UN).⁶⁸

Although the possibility of amending the Athena mechanism to cater for CBSD needs is implicitly mentioned in the Joint Communication on CBSD, extending the scope of the Athena mechanism to expenditure which is not linked to the functioning and the equipment of military CSDP missions would completely modify the nature of the mechanism. The Athena mechanism is set up, by virtue of Article 41(2) TEU for the benefit of EU CSDP military operations. Athena as it stands now is not an instrument for the benefit of third parties, including developing countries. **Moreover, Member States are not in agreement with a possible review.**⁶⁹ This option should be consequently **discarded**.

- *Options within the general budget of the Union are:*

Option 4 – Adapting the Instrument contributing to Stability and Peace

This option looks into the possible adaptation of the Instrument contributing to Stability and Peace (IcSP). This option would consist of amending the IcSP Regulation by introducing a new type of assistance measures.

The review of other external actions instruments can be discarded: the review of the European Neighbourhood Instrument (ENI) and the Development Cooperation Instrument (DCI) would not address the requests by the Council for a flexible geographical scope, since both have a limited geographical scope. They are moreover subject to ODA directives.

On the other hand, the **main objectives** of the **Instrument contributing to Stability and Peace** (IcSP, 2014-2020) are: i) to contribute to stability (at least 70% of funding), ii) to contribute to the prevention of conflicts and to ensure capacity and preparedness to address pre- and post-crisis situations and build peace (9% of funding), and iii) to address global and trans-regional threats to peace, international security and stability.

The **scope of the instrument is worldwide** and its interventions are not bound by OECD ODA criteria. The IcSP is based on Articles 209 and 212 TFEU. While Article 212 TFEU concerns technical cooperation with third countries, cooperation with developing countries comes under the scope of Article 209 TFEU.

The IcSP instrument addresses needs that cannot otherwise be tackled under any other instrument either because of (a) the urgency of the response, (b) the global or trans-regional nature of the problem, exceeding the scope of a geographic instrument; (c) the exclusion of the supported area from funding under ODA-bound instruments (e.g. counter-terrorism), or (d) the non-country specific nature of the assistance (e.g. projects to develop international standards or policies in the field of conflict prevention and peace-building).

In order to respond to crisis and/or to rapidly intervene to preserve peace and prevent conflict, the IcSP instrument allows, *inter alia*, support for international state and non-state actors in

⁶⁸ When requested by the Operation Commander and approved by the Special Committee, Athena may also finance the following: (a) barracks and lodging/infrastructure, essential additional equipment, medical services, acquisition of information; (b) other critical theatre-level capabilities (demining, chemical, biological, radiological, and nuclear (CBRN) protection, storage and destruction of weapons).

⁶⁹ Foreign Affairs Council (Defence formation) conclusions on CSDP, document 8971/15 of 18 May 2015

promoting confidence-building, mediation, dialogue and reconciliation; the establishment and the functioning of interim administrations mandated in accordance with international law; the development of democratic, pluralistic state institutions, including measures to enhance civilian administrations and the role of women; international criminal tribunals and *ad hoc* national tribunals, truth and reconciliation commissions; civilian measures related to the demobilisation and reintegration of former combatants into civil society as well as measures to reintegrate victims of armed conflict including gender-based violence and the specific needs of women and children and measures in response to natural or man-made disasters in the absence of or as a complement to humanitarian assistance.

Within this framework, the IcSP has funded a number of crisis-related CBSD actions addressing the security-development nexus within a civilian context, often in a complementary way to civilian CSDP missions. However, **its current provisions do not explicitly allow for assistance measures that involve building the capacity of security actors, including the military.**

Therefore, bearing in mind the nature of the IcSP, its objectives, the flexibility in its scope (thematic and geographic) and in its implementation/delivery mechanism (programmable, but also non-programmable), a targeted revision of the IcSP appears as the most appropriate short-term option to support CBSD actions today.

An amendment to the IcSP Regulation would be limited to adding a new type of assistance measure allowing the instrument to address the current gap by enabling support to enhance the partners' capacity to prevent, to prepare for and to respond to crises. This would be done in particular through the provision of training and equipment to military forces to address urgent short-term as well as medium-term needs in the context of the achievement of sustainable development, i.e. stable, inclusive and peaceful societies. The amendment of the IcSP Regulation would be a **transition option valid up to the end of the current Multi-annual Financial Framework (2020)**; it would not preclude a more comprehensive approach to security sector reform. The mid-term review of external action instruments will offer an opportunity to look critically at Union instruments and, if needed, to propose amendments to the corresponding regulations looking at value-added, relevance, coherence, complementarity across instruments as well as the adequacy to the evolving context and priorities.

Option 5 – ‘Facility’ with existing EU instruments

This option, which was mentioned in the Joint Communication of April 2015, would consist of setting up a dedicated ‘facility’ linking various instruments by regrouping and bringing security elements to the forefront. The main feature of such an option is that it would draw on different resources from existing external financing instruments, notably: ENI, DCI and IcSP. Such a facility could take the form of a thematic trust fund.⁷⁰

A dedicated thematic trust fund would have the merit of allowing Member States and potentially other donors to contribute funds. However, this assumes a wish of EU Member States to contribute additional funding, which is not the case. Moreover, since an EU trust

⁷⁰ The provisions of the Financial Regulation (Article 187) allow for the creation of trust funds for emergency, post-emergency situations or for addressing a specific thematic issue, provided there is true value added to the Union intervention, and provided the trust fund brings clear visibility, managerial advantages and additionality.

fund would not be a new instrument, but an implementing tool, it would still be bound by the requirements of the basic legal acts from which it drew the funds, although the bilateral contributions from other donors/ EU Member States would not be bound to these requirements. Establishing a thematic trust fund to support CBSD measures would require amending several existing instruments, since instruments do not explicitly allow for the financing of all security actors. **The complexity of this option would therefore not be proportionate to address the identified gap and should be discarded.**

Option 6 – New dedicated instrument based on Articles 209 and 212

A dedicated instrument to support sustainable development by means of support to the security sectors of third countries would serve, without any geographic limitation, the broader objective of supporting security and development flexibly and comprehensively, covering as many interrelated aspects of the security system as possible. It could promote, *inter alia*, cooperation to support capacity building of the security sector, including military actors in order to foster stabilisation and development efforts.⁷¹

A dedicated instrument could provide a more comprehensive and holistic approach to security and development within the security sector reform policy framework than the revision of the IcSP described above. Such a broader instrument could be, *inter alia*, a vehicle to operationalise the *Global Strategy*⁷² for the EU's foreign and security policy and would also be linked more comprehensively to the *European Agenda on Security*.⁷³

This option would require proposing a new Regulation establishing a new financing instrument. However, this option would also require the revision of a number of existing instruments which include programmes dedicated to security sector reform (e.g. ENI, DCI, IcSP) in different fields (e.g. police or border patrol reform). **Bearing in mind that a proposal for a new instrument larger in scope should only be explored within the context of the MTR of the external financing instruments (i.e. a proposal by the Commission could be tabled at the earliest by 2018), this option should be discarded.**

Option 7 – New instrument based on Article 28 TEU under CFSP

In case of need, the Common Foreign and Security Policy (CFSP) chapter in the Treaty on European Union (Article 28 TEU), allows the Council to adopt decisions to preserve peace, prevent conflicts and strengthen international security in line with Article 21(2)(c) TEU. On this basis, the Council could adopt (on a proposal from the High Representative):

- a general instrument financed under the CFSP budget, setting out general rules on the eligibility of 'capacity building in support of security and development' (CBSD) expenditure and related procedures. Such an instrument would be implemented on a case by case basis through specific Council implementing decisions relating to specific actions to be carried out in the concerned third States; or

⁷¹ This could include adequate training facilities for third country security sector personnel and better structures of governance and civilian oversight in the defence sector which is essential for an effective EU intervention in terms of security sector reform.

⁷² *Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union's Foreign and Security Policy*, High Representative of the Union for Foreign Affairs and Security Policy, June 2016

⁷³ COM(2015) 185 final of 28 April 2015

- Decisions setting up a specific instrument tailored to a specific action and financed under the CFSP budget.

This option would require a general CFSP instrument (established by a Council framework Decision) and/or a specific Council decision adopted by unanimity. It would also require that the necessary funding be made available in a corresponding budget line within the CFSP under Heading IV. **Nevertheless, a new instrument based on Article 28 TEU would be subject to the limitations under Article 41(2) TEU and should consequently be discarded.**

4. COMPARISON OF THE POLICY OPTIONS AND ASSESSMENT OF THE IMPACTS

4.1. COMPARING THE OPTIONS

The purpose of capacity building in support of security and development measures should be to allow the Union's development efforts to be more effective by contributing to provide the necessary enabling environment, i.e. stable and secure societies, where all partners, including the military, play their role in supporting the respect for human rights, democracy, the rule of law and good governance principles.

The focus of CBSD funding should be restricted to those elements that cannot be funded otherwise under the currently existing instruments. The way forward should not be used to replace what is currently already done and realised under the CSDP framework. Rather, it should be used to ensure complementarity between CSDP missions and operations and Security Sector Reform (SSR) efforts funded under other instruments (e.g. the EDF or the DCI), thus promoting comprehensiveness and complementarity between ongoing efforts in the domain of security and development.

It is important that the creation of a new instrument, or the adjustment of existing ones, do not divert funding away from existing measures aimed at building peace and preventing violent conflict in partner countries, including activities which are led by civil society actors.

The main differences between the options relate to:

- possibility under the proposed measure to react flexibly (i.e. quickly) and comprehensively (i.a. worldwide application);
- feasibility within budgetary constraints faced by Member States; and
- ability of the Commission to table a proposal rapidly and prospects for entry into force within a reasonable timeframe.

In light of the analysis above, certain conclusions can be drawn as regards the main advantages and disadvantages of the various options presented:

As regards the **options outside the general budget of the Union**, they all have several disadvantages, also in light of the expectations expressed by Member States. These disadvantages concern the scope (ability to work with military actors and geographic coverage) and also financial considerations.

The APF (option 1) is already financially stretched and its use for CBSD would require additional financing. In addition, the APF is only applicable to ACP Africa, its non-worldwide application excludes this option *a priori*, since an amendment to change its geographical coverage would require prior discussions with the ACP side and its link with the Cotonou Agreement would only allow its use in ACP countries.

Options 2 and 3 (new dedicated instrument and revision of the Athena mechanism) would require additional financing to be provided by Member States. This would prove difficult to secure since in the current economic context, Member States have repeatedly expressed a preference for a solution that stays within the limits of existing budgetary allocations. These options can consequently not be considered at this stage.

As regards the **options within the general budget of the Union:**

Options 4 and 6 – amending an existing instrument(s) or designing a new one/within the general budget of the Union – compared to the options outside the Union budget, have the advantage of:

- evidencing a policy shift that would need to be endorsed by the co-legislators in the context of an ordinary legislative procedure;
- staying within the current budget of the Union, albeit within the limits of the current MFF under Heading IV, making them much more likely to be acceptable to the Council, since they would not require additional financial efforts by Member States;
- being able to enter into force more quickly than the options outside the general budget of the Union.

These considerations also apply to option 5 ('Facility' with existing instruments). However, option 5 would require not only tabling a new proposal, but also amending not one but several financing instruments. Finally yet importantly, by proposing a new legal act, this option would not be in line with the principle of 'simplification'. Option 5 should therefore be discarded. Creating a new instrument (option 6) is a longer-term option and it would also be contrary to the principle of simplification, by creating an additional legal act. Therefore, this option should also be discarded.

Option 4, i.e. amendment of the IcSP would appear as the best option, because:

- it is specifically geared to flexibly address situations where peace and security are under threat: its programming and implementation framework provides for exceptional assistance measures and interim response programmes with a limited duration, with a view to establishing or re-establishing the essential conditions necessary for the effective implementation of the EU's external cooperation policies.
- it allows to quickly and flexibly addressing crisis situation, i.e. to provide assistance in situations of crisis, or emerging crises to prevent conflicts, as well as assistance for conflict prevention, peace building and crisis preparedness;
- it has a worldwide geographic scope; it can address global and trans-regional threats to peace, international security and stability;

- it is not bound by ODA requirements.

Option 7, a new instrument based on Article 28 TEU should be discarded as it would not be able to pursue all of the objectives.

Analysis of the different options with regard to effectiveness, efficiency and coherence

	<u>Outside the budget of the Union</u>			<u>Within the budget of the Union</u>			
	Option 1: Review African Peace Facility	Option 2: Instrument outside the general budget of the Union	Option 3: Review of the Athena mechanism	Option 4: Adaptation of the Instrument contributing to Stability and Peace	Option 5: 'Facility' within existing TFEU instruments	Option 6: New TFEU based dedicated instrument	Option 7: New TEU based instrument under CFSP budget
Effectiveness (how effective an intervention is in terms of achieving its objectives)	+	++	+	+	+	+	0
Efficiency/cost-effectiveness (measures what was / will be achieved and compares it to inputs/resources: financial, human, organisational)	-	0	0	+	0	0	+
Coherence (how well the proposed intervention work both internally and externally with other EU policy objectives and with other initiatives and instruments)	0	-	0	+	+	0	0
Total	0	+	+	+++	++	+	+

4.2. PREFERRED OPTION

Following the comparative analysis above, the need to provide financing to all security actors in partner countries, including the military, would allow to complement the EU toolbox of external action instruments. This is an urgent developmental and political priority. Therefore, **a limited revision of the IcSP would appear the most effective short-term solution**, addressing the issue at stake, in view of (i) timing, (ii) objectives, (iii) geographical coverage, and (iv) flexibility in its implementation as a crisis instrument.

A revised IcSP Regulation would indicate that assistance should cover support for measures aimed at building and strengthening the capacity of military actors of partner countries to contribute to sustainable development and in particular the achievement of peaceful and inclusive societies. The technical and financial assistance may cover in particular, the provision of capacity building programmes as well as the provision of non-lethal equipment and infrastructure improvements. For example, supporting the establishment and operation of a medical facility including civilian and military personnel in Somalia would be possible under this option, while this was not possible as shown during the pilot-project phase. Measures funded should promote that military actors operate in accordance with international law and promote and enforce human rights and the rule of law.

Support to the military of third countries with EU instruments using Article 209 TFEU as a legal basis would remain exceptional. It would only be applicable in specific partner countries under clearly defined situations where building the capacity of the military serves a developmental goal.

In terms of cost, a budget of EUR 100 million over the period 2017-2020 would be required.

The initiative could be financed through redeployment within Heading IV of the general budget of the Union. No additional resources would be mobilised. Implementation will be governed by Regulation No 236/2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external actions.⁷⁴ The amount of EUR 100 million is based on a projection over a four-year period taking into account the size of projects already identified. This amount represents a **marginal percentage** within Heading IV. The implementation of CBSD measures will hence not divert funding away from existing measures aimed at development that is more "traditional".

A comprehensive and long-term implementation of the CBSD initiative (i.e. including support to the military for defence-related purposes) would consequently require combining a budget instrument (for development tasks) with another, possibly extra-budgetary, mechanism.

5. MONITORING AND EVALUATION

Monitoring and evaluation modalities are laid down in Regulation No 236/2014 laying down common rules and procedures for the implementation of the Union's instruments for financing

⁷⁴ OJ EU, L77, 15 March 2014, p. 95.

external action⁷⁵ that applies to all EU external financing instruments, including the Instrument contributing to Stability and Peace, which is the preferred option. Reporting modalities are also foreseen in this Regulation.

Under all options, monitoring and evaluation modalities play an important role. EU Delegations, EEAS and Commission services will continuously monitor the implementation of CBSD projects with military actors including through field visits, providing managers valuable information on progress or lack thereof against set objectives while helping to identify/anticipate potential difficulties to take corrective action. External, independent experts may also be contracted to assess and evaluate the performance of CBSD programmes. These assessments and evaluations, whether internal or external, will contribute to accountability, and to the improvement of ongoing interventions; they will also draw lessons from past experiences to inform future policies and actions using the internationally-recognised OECD-DAC evaluation criteria including (potential) impact. The results shall feedback into the programme design and resource allocation.

⁷⁵ Article 12 and Article 13, OJ EU, L77, 15 March 2014, p. 95.

3. ANNEXES

These sections provide an overview of the consultation tools that have been used for this initiative. The tools include an Inception Impact Assessment, a public consultation and targeted consultations with relevant stakeholders, including EU Member States. It covers in particular the main trends emerging from the internet based public consultation as well as the views of several EU Member States as expressed in a non-paper.

ANNEX 1: INCEPTION IMPACT ASSESSMENT

The Inception Impact Assessment was published on the Commission's website to give stakeholders the opportunity to provide feedback.⁷⁶ No feedback was received.

ANNEX 2: PUBLIC CONSULTATION: OVERVIEW

An online public consultation was launched on 1 April 2016 and closed on 27 May 2016. The aim was to gather views from the public. Seventy-eight contributions were received. Respondents were to a large extent citizens/private individuals as well as non-governmental organisations (NGOs).

Within the framework of this public consultation, 94% of the respondents agreed that an effective, legitimate and accountable security sector in partner countries could contribute to peace, human security and sustainable development; 88% of the respondents agreed that the security development nexus should be better integrated in EU support strategies in order to better contribute to sustainable development in partner countries; 85% of the respondents agreed that strengthening the governance of military actors, particularly in fragile countries and countries emerging from conflict could lead to stability and the achievement of sustainable development goals.

Regarding other aspects (CBSD purpose, context in which CBSD support could be deployed, geographical scope and possible type of CBSD activities), the majority of respondents expressed 'no opinion'; 69% favoured the sub-option 'nowhere' when it comes to regions/partners countries of deployment and 59% favoured the sub-option 'nothing' when it comes to possible type of activities.

A number of respondents questioned the format of the survey, *inter alia*, stating that it did not allow for appropriate consideration of the breadth of factors that needed to be addressed.

Specific contributions included the following points:

- The focus of CBSD funding should be restricted to those elements that cannot be funded otherwise under the currently existing instruments. A possible initiative should not be used to replace what is already done and realised under the CSDP framework. Rather, it should be used to build effective linkages between CSDP missions and operations on the one hand, and Security Sector Reform (SSR) efforts funded under other instruments or mechanisms (e.g. the EDF or the DCI) on the other hand, thus promoting

⁷⁶ http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_fpi_002_capacity_building_security_development.pdf

comprehensiveness and complementarity between ongoing efforts in the domain of security and development⁷⁷;

- Within the process of policy coherence and integration, there should be a clear division of labour and mandates between civilian and military actors, while the integrity of each policy area and their respective objectives and budget are safeguarded⁷⁸;
- The definition of security is wider than State security and should focus primarily on human security. Human security includes people-centred, multi-sectoral, comprehensive, context-specific and prevention-oriented approaches. This is especially the case when it is clear that without security, access to the people most at risk of being left behind in conflict settings is limited, and effective outcomes of either humanitarian and development work are less likely⁷⁹;
- The creation of a new funding instrument, or the adjustment of existing ones, should not divert funding away from existing measures aimed at building peace and preventing violent conflict in partner countries, including those activities which are led by civil society actors⁸⁰;
- CBSD funding should not be bound by ODA-eligibility criteria, as its rationale would be to cover activities that cannot be funded under the development instruments because of the restrictions posed by the DAC criteria.⁸¹ A focus on complementarity would also limit the risk of a ‘securitisation’ of development fund. However, it is important that the contribution that financing of military actors can make to development processes is not simply taken for granted. Instead, efforts should be made to ensure that the formulation of CBSD actions explicitly builds on a theory of change on how it can contribute to the EU’s development objectives;
- Under the current EU external instruments framework, it is possible to work effectively towards sustainable peace and security by making use of the political and civilian potential for conflict prevention and transformation or security sector reform; civilian action and civil society efforts in the area of human rights and human security, rather than military capacities, should be strengthened⁸²;
- A number of contributions highlighted that the EU should support civilian-led peace-building efforts, since stabilisation and conflict prevention is best carried by civilian peace keepers⁸³; EU financing for security should concentrate on diplomacy, mediation, enhancing the rule of law, human rights and peace-building, and other non-military means to build sustainable security⁸⁴;

⁷⁷ Public consultation: contribution by European Centre for Development Policy Management (ECDPM)

⁷⁸ Public consultation: contribution by ACT Alliance Advocacy to the European Union

⁷⁹ Public consultation: contribution by VOICE

⁸⁰ Public consultation: contribution by European Centre for Development Policy Management (ECDPM) and by European Peacebuilding Liaison Office (EPLO)

⁸¹ Public consultation: contribution by European Centre for Development Policy Management (ECDPM)

⁸² Public consultation: contribution by ACT Alliance Advocacy to the European Union

⁸³ Private citizen

⁸⁴ Ibid

- There are UN rules on whether and how to use military support to deliver humanitarian aid (Oslo guidelines for natural disasters and MCDA (Military and Civil Defence Assets) guidelines for conflict); if these rules are not followed, it risks to negatively impact the entire humanitarian endeavour⁸⁵; blurring the lines between humanitarian aid and military action might not only put humanitarian staff at risk, by jeopardising their neutrality and independence, but also the humanitarian space as a whole⁸⁶;
- The EU should focus on peacebuilding techniques to integrate young people into society. Education will help reduce the number of people whose only option seems to come with being recruited to armed forces. Peace education would be particularly useful⁸⁷; peacebuilding activities that focus on young people offer the opportunity to address the needs of a group whose interests are often marginalised during conflict⁸⁸;
- CBSD constitutes a high priority. It is important for the credibility of the EU to deliver on this issue. CBSD must tackle different kinds of security challenges and therefore has to encompass both military and civilian components. In the short term, the IcSP constitutes the most appropriate tool to achieve this objective; In the medium-term, a dedicated instrument⁸⁹;
- The link between security and development and the support to partner countries and regional organisations (through the provision of training, advice and non-lethal equipment) is important⁹⁰. In order for partners to be able to prevent or manage crises by themselves, necessary support can include: infrastructure support, CIS (communication and information systems) equipment, logistics support, personal equipment and non-lethal personal protective equipment and administrative support and systems. It is important to maintain a clear separation of military and humanitarian actors (the humanitarian space concept) for the purposes of supporting EU humanitarian action⁹¹.

⁸⁵ Public consultation: contribution by CARE France

⁸⁶ Public consultation: contribution by VOICE

⁸⁷ Private citizen

⁸⁸ Private citizen

⁸⁹ Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation of Belgium

⁹⁰ Department of Foreign Affairs and Trade/Department of Defence, Ireland

⁹¹ Ibid

Capacity Building in Support of Security and Development (CBSD) - Online public consultation

Questions Set 1	Answers	Ratio
No 1: Do you agree that an effective, legitimate and accountable security sector in partner countries could contribute to peace, human security and sustainable development?		
Agree	73	94%
Disagree	2	3%
Completely disagree	1	1%
No opinion	2	3%

Questions Set 2	Answers	Ratio
No 2: Do you agree that the security-development nexus should be better integrated in EU support strategies in order to better contribute to sustainable development in partner countries?		
Agree	69	88%
Disagree	3	4%
Completely disagree	4	5%
No opinion	2	3%

Questions Set 3	Answers	Ratio
No 3: Do you agree that strengthening the governance of military actors, particularly in fragile countries and countries emerging from conflict could lead to stability and the achievement of sustainable development goals		
Agree	66	85%
Disagree	6	8%
Completely disagree	4	5%
No opinion	2	3%

Questions Set 4	Answers	Ratio
No 4: Do you agree that there are gaps in addressing military capacity building in partner countries within the current EU financial framework, notably in the provision of non-lethal equipment and infrastructure, and that these gaps could undermine the effectiveness of the EU's response to conflicts, crises and fragility?		
Agree	22	31%
Disagree	7	10%
Completely disagree	6	8%
No opinion	37	51%

Questions Set 5	Answers	Ratio
No 5: Do you agree that Security Sector Reform (SSR) should cover both civilian (e.g. justice, police) and military aspects?		
Agree	30	38%
Disagree	3	4%
Completely disagree	4	5%
No opinion	41	53%

Questions Set II: In your opinion, on a scale from 1 (highest priority) to 5 (lowest priority)	Answers	Ratio
No 6: EU financial support to military actors in partner countries, should be used in:		
Crisis situations (including emerging crises)		
1	13	17%
2	2	3%
3	2	3%
4	7	9%
5	12	15%

No opinion	42	54%
Post crises situations		
1	11	14%
2	4	5%
3	2	3%
4	8	10%
5	8	10%
No opinion	45	58%
Stables contexts		
1	7	9%
2	5	6%
3	4	5%
4	5	6%
5	12	15%
No opinion	45	58%

No 7: EU financial support to military actors in partner countries could:	Answers	Ratio
Enhance more effective coordination on the ground		
1	10	13%
2	5	6%
3	7	9%
4	3	4%
5	8	10%
No opinion	45	58%
Bring added value to EU CSDP training missions		
1	12	15%
2	2	3%
3	8	10%
4	3	4%

5	8	10%
No opinion	45	58%
Usefully complement EU efforts to support civilian security actors		
1	11	14%
2	11	14%
3	4	5%
4	2	3%
5	6	8%
No opinion	44	56%
Help in achieving more successful Disarmament, Demobilisation and Reintegration (DDR) processes		
1	12	15%
2	12	15%
3	2	3%
4	5	6%
5	5	6%
No opinion	42	54%

No 8: EU financial support to military actors in partner countries, in a situation of crisis, post crisis or in a stabilisation context, should aim to:	Answers	Ratio
Provide stability and security for sustainable development		
1	20	26%
2	1	1%
3	4	5%
4	1	1%
5	10	13%
No opinion	42	54%
Promote more accountable, legitimate and effective military actors		

1	13	17%
2	9	12%
3	6	8%
4		0%
5	10	13%
No opinion	40	51%
Support the EU's humanitarian efforts		
1	13	17%
2	7	9%
3	5	6%
4	2	3%
5	11	14%
No opinion	40	51%

No 9: EU financial support to military actors in partner countries, in a situation of crisis, post crisis or in a stabilisation context, could be used in:		
Sub-Saharan Africa		
1	8	10%
2	4	5%
3	5	6%
4	3	4%
5	14	18%
No opinion	44	56%
EU neighbourhood countries		
1	9	12%
2	5	6%
3	4	5%
4	2	3%
5	14	18%

No opinion		
Sub-Saharan Africa and EU neighbourhood countries		
1	13	17%
2	4	5%
3	4	5%
4	2	3%
5	14	18%
No opinion	41	53%
All partner countries		
1	6	8%
2	1	1%
3	9	12%
4	2	3%
5	17	22%
No opinion	43	55%
Nowhere		
1	49	63%
2	1	1%
3	1	1%
4	1	1%
5	16	21%
No opinion	10	13%

No 10: EU financial support to military actors in partner countries, in a situation of crisis, post crisis or in a stabilisation context, should consist of:		
Capacity building programmes (including trainings, mentoring and advice)		
1	15	19%
2	3	4%

3		5	6%
4		1	1%
5		11	14%
No opinion		43	55%
Equipment (strictly non-lethal)			
1		12	15%
2		2	3%
3		5	6%
4		2	3%
5		15	19%
No opinion		42	54%
Infrastructure improvements (hospitals, training rooms, roads)			
1		12	15%
2		8	10%
3		7	9%
4		1	1%
5		10	13%
No opinion		40	51%
Allowances of actors involved in security policy/implementation (including salaries)			

1		3	4%
2		6	8%
3		7	9%
4		5	6%
5		17	22%
No opinion		40	51%
Improving communication between all actors involved in security policy/implementation			
1		13	17%
2		7	9%
3		6	8%
4		4	5%
5		11	14%
No opinion		37	47%
Nothing			
1		46	59%
2		1	1%
3		1	1%
4			0%
5		17	22%
No opinion		13	17%

ANNEX 3: TARGETED CONSULTATION OF STAKEHOLDERS

In addition to the Inception Impact Assessment and the public consultation described above, several meetings, workshops and seminars with relevant stakeholders to consider and exchange views on the different issues concerned by this initiative took place over 2015. This section illustrates the main conclusions that can be drawn from those consultations:

Civil Society Dialogue Network Policy Meeting. Capacity building in support of security and development: Gathering civil society input, Brussels, 12 March 2015

This workshop brought together 19 representatives of European peacebuilding civil society organisations (CSOs) and officials from both the European Commission and the European External Action Service (EEAS) to gather analysis and recommendations on the issues and approaches involved in building the capacity of the EU's partners in support of security and development. The report of this workshop pointed to the following:

- Capacity building in support of security and development in the EU's partner countries is in the European interest;
- There are expectations that the debates and sensitivities surrounding security and development will lead to an implementation which has real impact in the EU's partner countries;
- The EU's increased focus on conflict prevention is welcome;
- Investment in civil society's ability to interact with institutions alongside support for the institutions themselves is important;
- Capacity building has been focused on the ability of states to provide security and justice. One way of implementing the EU's Comprehensive Approach and increasing the complementarity of CSDP missions and other EU tools could be by increasing both capacities to deliver security and justice whilst also increasing the demand for more effective delivery;
- Capacity building is about building relations between different actors and, therefore, it requires trust building, which cannot happen overnight. Designing support for capacity building must take this into account and allow for long-term, flexible approaches.

European Parliament. Meeting of the Subcommittee on Security and Defence, Brussels, 28 May 2015

During this meeting, representatives of the European Commission and the EEAS presented the main features of the Joint Communication on CBSD recalling that from a development perspective the main underlying assumption is that poverty and lack of governance have direct consequences on partners' security. Members who intervened supported the option of creating a specifically dedicated instrument as the most efficient way to ensure consistency among the scattered EU and Member States' initiatives already addressing the development/security nexus while also underlining the need to strike a balance between development and security objectives.

The Commission and the EEAS concurred that there is no intention to militarise development aid, and that the assessment of risks (notably reputational) is crucial. Beyond the CBSD initiative, it is important to continue working on good governance and building the capacity of

partner countries, which goes in tandem with the development of a new strategic policy framework on security sector reform.

European Parliament. Meeting of the Committee on Development, hearing on Security and Development, Brussels, 30 November – 1 December 2015

At the Committee meeting, the European Parliament Members drew attention, among others, to the implementation of SDG 16 on peace, security and justice, and to the importance of the human rights approach to development and the need to address the development-security link. The hearing addressed specifically the combined challenges of security and development; Members who intervened considered that funding should be used to provide not only training, but also equipment.

ANNEX 4: ADDITIONAL VIEWS BY EU MEMBER STATES

In a non-paper, dated 15 April 2016, ten EU Member States underlined the high priority attached by Member States to the implementation of the CBSD as well as the need for action to develop the EU's ability to work with partners to strengthen their civilian and military security sector.⁹²

The ten Member States also emphasised that:

- In the short term, the IcSP, as a key external assistance instrument, constitutes the most appropriate tool to achieve the objective;
- An instrument has a double leverage: first for short-term actions in response to situations of crisis and second for long-term capacity-building of organisations engaged in crisis response and peace-building;
- The IcSP has to be used to implement the CBSD pilot projects, including for the funding of equipment.

⁹² See “*Implementation of the CBSD initiative*“, Food For Thought Paper by Belgium, the Czech Republic, Finland, France, Germany, Italy, Luxemburg, the Netherlands, Portugal and Spain (Brussels, 15 April 2016).

ANNEX 5: LIST OF ACRONYMS AND ABBREVIATIONS

ACP	Africa, Caribbean and Pacific
APF	African Peace Facility
APSA	African Peace and Security Architecture
CBSD	Capacity building in support of security and development
CFSP	Common Foreign and Security Policy
CIS	Communication and Information System
CPA	Cotonou Partnership Agreement
CSDP	Common Security and Defence Policy
CSO	Civil Society Organisation
DAC	Development Assistance Committee
DCI	Development Cooperation Instrument
DDR	Disarmament, Demobilisation, Reintegration
EEAS	European External Action Service
EDF	European Development Fund
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
EU	European Union
EUTM	European Union Training Mission
HRVP	High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission
IcSP	Instrument contributing to Stability and Peace
IPA	Instrument for Pre-Accession Assistance
IT	Information Technology
JRC	European Commission's Joint Research Centre
MCDA	Military and Civil Defence Assets
MFF	Multiannual Financial Framework
MTR	Mid-Term Review
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental Organisation
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe

PI	Partnership Instrument
PSO	Peace Support Operation
SDG	Sustainable Development Goal
SSR	Security Sector Reform
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations