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## PROPOSAL

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 June 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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No. Cion doc.: COM(2018) 460 final

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL establishing the Neighbourhood, Development and  
International Cooperation Instrument

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Delegations will find attached document COM(2018) 460 final.

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Brussels, 14.6.2018  
COM(2018) 460 final

2018/0243 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the Neighbourhood, Development and International Cooperation  
Instrument**

{SEC(2018) 310 final} - {SWD(2018) 337 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons and objectives

This proposal is made in the context of the Multiannual Financial Framework (MFF) 2021-2027 as outlined in the communication ‘A modern Budget for a Union that Protects, Empowers and Defends – The Multiannual Financial Framework 2021-2027’<sup>1</sup> from the Commission to the European Parliament, the European Council and the Council, the European Economic and Social Committee and the Committee of the Regions. The communication sets the main priorities and overall budgetary framework for EU external action programmes under the heading ‘Neighbourhood and the World’, including the establishment of the Neighbourhood, Development and International Cooperation Instrument.

The objective of the Neighbourhood, Development and International Cooperation Instrument is to uphold and promote the Union’s values and interests worldwide in order to pursue the objectives and principles of its external action, as laid down in Article 3(5), Articles 8 and 21 of the Treaty on European Union (TEU).

The challenges that need to be tackled by external action have increased in recent years. The world has become characterised by rising fragility, brought about by several crises in the EU’s neighbourhood and beyond. Regional conflicts, terrorism, economic inequalities and growing migratory pressures, are all part of this new reality compounded by population growth, climate change and environmental degradation. At the same time, while poverty levels have declined globally, the number of people living in poverty continues to be a major problem, including in emerging economies. While significant progress has been achieved by some partners, others remain locked in fragile situations.

In the Multiannual Financial Framework 2014-2020, a number of financing instruments coexist under the Global Europe heading, most of which will expire on 31 December 2020. Their purpose varies within the broad objectives of the EU’s external action, including:

- poverty reduction and sustainable development (Regulation (EU) 233/2014 establishing the Development Cooperation Instrument),
- promoting the Union’s strategic interests (Regulation 234/2014 establishing the Partnership Instrument),
- assistance for the Union’s neighbourhood (Regulation (EU) 232/2014 establishing the European Neighbourhood Instrument),
- the protection of human rights (Regulation (EU) 235/2014 establishing the European Instrument for Democracy and Human Rights worldwide),
- crisis response, conflict prevention and peace-building activities in partner countries (Regulation 230/2014 establishing the Instrument contributing to Stability and Peace),
- the promotion of a high level of nuclear safety (Regulation (EURATOM) 237/2014 establishing the Instrument for Nuclear Safety Cooperation),

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<sup>1</sup> COM (2018) 321 final

- support for restoring a sustainable financial situation while encouraging economic adjustment reforms (macro-financial assistance)<sup>2</sup>,
- support of small and medium-sized enterprises in targeted third countries and the development of social and economic infrastructure and support of projects related to climate change (Decision (EU) 2018/412 amending Decision No 466/2014/EU on the external lending mandate),
- a guarantee fund for external action (Regulation (EC/EURATOM) 480/2009), and
- a European Fund for Sustainable Development, its Guarantee and its Guarantee Fund (Regulation (EU) 2017/1601).

The Common Implementing Regulation (Regulation (EU) 236/2014) laying down common rules and procedures for the implementation of the EU instruments for financing external action is also due to expire.

The 11<sup>th</sup> European Development Fund<sup>3</sup>, although currently funded outside the EU budget, is one of the major external financing instruments, expiring at the end of 2020. It aims to ensure cooperation with African, Caribbean and Pacific States, contracting parties to the Cotonou Partnership Agreement, and with the Overseas Countries and Territories.

In line with the Communication ‘A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020’<sup>4</sup> and as concluded in the impact assessment<sup>5</sup> that accompanies this Regulation, all the above-mentioned instruments should be streamlined into one broad instrument, except for the macro-financial assistance grants and part of the Instrument for Nuclear Safety Cooperation<sup>6</sup>.

Recent reviews and evaluations<sup>7</sup> of the external instruments have shown their added value and relevance. However, they have also highlighted opportunities for improvements, in particular the need to simplify ways of working and to enable the EU to respond to unforeseen circumstances with greater flexibility. The lessons learned taken together with the growing challenges have prompted the Commission to modify the architecture of the external financing instruments, and incorporate the activities currently financed by the European Development Fund in the budget. Through this proposal the EU will continue to be able to play an active role in promoting human rights, stabilisation, development, security, fighting root causes of irregular migration, trade, the fight against climate change and the protection of the environment among other issues. However, it will be able to do so in a more comprehensive way while providing more flexibility to move resources to where they are needed as the international context changes.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

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<sup>2</sup> Macro-financial assistance is a financial instrument used on a case-by-case basis to help countries that are mainly geographically close to the EU dealing with serious balance-of-payments difficulties.

<sup>3</sup> Internal Agreement on the 11<sup>th</sup> European Development Fund - OJ L 210, 6 August 2013, p. 1; Council Regulation (EU) 2015/322 on the implementation of the 11<sup>th</sup> European Development Fund; and Council Decision (EU) 2015/334 amending the internal Agreement.

<sup>4</sup> COM/2018/092 final

<sup>5</sup> SWD (2018) 337.

<sup>6</sup> Nuclear-related activities require a specific legal basis and their adoption follows a specific procedure under the Euratom Treaty.

<sup>7</sup> [https://ec.europa.eu/europeaid/mid-term-review-report-external-financing-instruments\\_en](https://ec.europa.eu/europeaid/mid-term-review-report-external-financing-instruments_en)

- **Consistency with existing policy provisions**

This proposal provides an enabling framework through which external action policies and international obligations can be implemented. The international obligations include the 2030 Agenda for Sustainable Development<sup>8</sup>, the Paris Agreement on Climate Change<sup>9</sup>, the Addis Ababa Action Agenda<sup>10</sup>, the Sendai Framework for Disaster Risk Reduction (2015-2030)<sup>11</sup> and UN Security Council Resolution 2282 (2016) on sustaining peace<sup>12</sup>. Within the EU, the policy framework includes the Treaty provisions on external action, which are further detailed through the EU Global Strategy on Foreign and Security Policy<sup>13</sup>, the new European Consensus on Development<sup>14</sup>, the renewed EU-Africa Partnership<sup>15</sup> and the reviewed European Neighbourhood Policy<sup>16</sup>, amongst other policy documents<sup>17</sup>. The Regulation will also constitute the framework for implementing the successor partnership to the current Cotonou Agreement<sup>18</sup>, which establishes an association and partnership between the members of the African, Caribbean and Pacific Group of States, and the European Union and its Member States.

- **Consistency with other Union policies**

When implementing this Regulation, consistency with other areas of external action and with other relevant EU policies will be ensured, together with policy coherence for development<sup>19</sup>. As reflected in the 2030 Agenda, this means taking into account the impact of all policies on sustainable development at all levels — nationally, within the EU, in other countries and at global level.

Moreover, synergies with actions under other EU programmes should be sought, in order to maximise the impact of combined interventions. Interactions and complementarity with such programmes should allow for an enhanced Union impact. Actions funded under this proposal should be consistent with those carried out under the Instrument for Pre-Accession III<sup>20</sup>, the Decision on Overseas Countries and Territories<sup>21</sup>, the European Instrument for Nuclear Safety

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<sup>8</sup> <https://sustainabledevelopment.un.org/post2015/transformingourworld>

<sup>9</sup> [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)

<sup>10</sup> [http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAA\\_Outcome.pdf](http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAA_Outcome.pdf)

<sup>11</sup> <https://www.unisdr.org/we/coordinate/sendai-framework>

<sup>12</sup> Adopted by the Security Council at its 7680<sup>th</sup> meeting, on 27 April 2016.

<http://www.securitycouncilreport.org/un-documents/document/sres2282.php>.

<sup>13</sup> <https://europa.eu/globalstrategy/en/global-strategy-foreign-and-security-policy-european-union>

<sup>14</sup> [https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf)

<sup>15</sup> <https://www.africa-eu-partnership.org/en>

<sup>16</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/151118\\_joint-communication\\_review-of-the-enp\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/151118_joint-communication_review-of-the-enp_en.pdf)

<sup>17</sup> *Inter alia* the Arctic policy (JOIN(2016) 21 final, Joint Communication to the European Parliament and the Council, "An integrated European Union policy for the Arctic" of 27 April 2016) and the Black Sea Synergy (COM(2007) 160 final, Communication from the Commission to the Council and the European Parliament, "Black Sea Synergy – A New Regional Cooperation Initiative", 11 April 2007).

<sup>18</sup> [https://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement\\_en](https://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement_en)

<sup>19</sup> [https://ec.europa.eu/europeaid/policies/policy-coherence-development\\_en](https://ec.europa.eu/europeaid/policies/policy-coherence-development_en)

<sup>20</sup> COM (2018) 465 final Proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III)

<sup>21</sup> COM(2018) 461 final Proposal for a Council Decision on the Association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Overseas Association Decision').

to complement the Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty<sup>22</sup>, the common foreign and security policy and the newly proposed European Peace Facility<sup>23</sup> which is financed outside the EU budget. Humanitarian aid as set out in Article 214 of the Treaty on the Functioning of the European Union will not be funded under this proposal; humanitarian aid activities will continue to be funded on the basis of the Humanitarian Aid Regulation<sup>24</sup>.

The External Action Guarantee, financed by this Regulation and IPA III, will also cover the provisioning for macro-financial assistance to address balance of payments crises in relevant countries. The provision of the External Action Guarantee for macro-financial assistance should be commensurate to address the political challenges and economic instability of these countries, taking as a point of reference the annual lending volume agreed in the Mid-term Review of the Multiannual Financial Framework 2014-2020. This non-programmable support should be complementary to other assistance modalities laid down in this Regulation.

Funding from this Regulation should also be used to finance actions related to learning mobility to, from or between third countries under the Erasmus programme, as well as cooperation and policy dialogue with those countries, in education and in culture in a way that is consistent with the Erasmus Regulation and the Creative Europe Regulation.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

This proposal is based on Articles 209, 212 and 322 of the Treaty on the Functioning of the European Union. It is presented by the Commission in accordance with the procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

Part Five, Title III, Chapters 1 and 2 of the Treaty on the Functioning of the European Union, provides the legal framework for cooperation with partner countries and regions.

### **• Subsidiarity**

The EU is in a unique position to deliver external assistance for a number of reasons. Its status as a supranational entity brings with it political influence and consequent leverage. The EU has a global presence through its delegations, which ensures a vast network of information on developments affecting countries worldwide. The EU is also a party to most multilateral processes aiming at addressing global challenges. This allows the EU to be constantly aware of new needs and problems and, therefore, to reallocate resources accordingly. Complementarities between EU action and the actions carried out by the Member States are increasing. This enhances dialogue and cooperation with partner countries, which is increasingly channelled through joint programming with Member States.

The EU is also able to complement Member States activities in dealing with potentially dangerous situations or in the event of particularly costly interventions. In some areas where

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<sup>22</sup> COM(2018) 462 final Proposal for a Council Regulation establishing a European Instrument for Nuclear Safety complementing the Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty.

<sup>23</sup> C(2018) 3800 final Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision establishing a European Peace Facility.

<sup>24</sup> Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

Member States are not active, the EU remains the main, and sometimes the only, actor to intervene. This is the case, for instance, in sensitive contexts such as the defence of human rights and electoral observation missions.

The EU has the opportunity to establish dialogue and cooperation with international and regional organisations, for example with the group of ACP countries and the African Union.

The EU can provide added value based on the volume of resources channelled through its instruments, its relatively flexible modes of management and the predictability of resources over the period of the Multi-annual Financial Framework.

The EU has significant expertise in certain fields originating from the history of Europe itself (for instance, regional integration and democratic transition) and from successful policies (such as expertise in food security gained through the common agricultural policy and the common fisheries policy, and in the technical standards of the Single Market). It has a recognised international reputation as a peace and conflict prevention actor and as an active supporter of free elections and human rights.

- **Proportionality**

In line with the principle of proportionality, the proposed Regulation does not go beyond what is necessary to achieve its objectives.

- **Choice of the instrument**

In accordance with Articles 209 and 212 of the Treaty on the Functioning of the European Union, which set out the ordinary legislative procedure to be used to adopt measures for implementing cooperation with third countries, the proposal takes the form of a Regulation, ensuring its uniform application, binding nature in its entirety and direct applicability.

### **3. RESULTS OF RETROSPECTIVE EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Retrospective evaluations/fitness checks of existing legislation**

The mid-term review report<sup>25</sup> adopted by the Commission on 10 of the external financing instruments<sup>26</sup>, the *ex post* evaluation reports on macro-financial assistance and the mid-term review on the European Investment Bank external lending mandate<sup>27</sup> all concluded that the external financing instruments were, overall, fit for purpose and that positive trends were emerging in relation to the achievement of objectives. The reports show that more resources are needed for external financing instruments because they have been stretched to their financial limit.

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<sup>25</sup> The mid-term review report COM(2017) 720 final, was based on ten staff working documents, one per instrument (see list below), which in turn were based on ten independent evaluations. The mid-term report, the staff working documents and the independent evaluations can be found at here: [https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union\\_en](https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en)

<sup>26</sup> The 10 instruments were the: Development Cooperation Instrument (DCI); European Development Fund (EDF); European Neighbourhood Instrument (ENI); Instrument for Pre-Accession (IPA II); Instrument contributing to Stability and Peace (IcSP); European Instrument for Democracy and Human Rights (EIDHR); Partnership Instrument (PI); Instrument for Nuclear Safety Cooperation (INSC); Greenland Decision (GD); and Common Implementing Regulation (CIR).

<sup>27</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016DC0584>

The instruments set the scope, objectives and procedures for implementing the policies. The mid-term review report has shown that their enabling nature allows them to cover most needs and goals of EU external action. They would benefit from better reflecting a number of developments such as: the new policy framework including the universal coverage of the 2030 Agenda, the migration/refugee crisis, and the external projection of internal policies. In addition, more consideration needs to be given to the links between development and security and the overall level of ambition for peace and security in external action.

Introducing the principle of graduation<sup>28</sup> in certain instruments (i.e. the Development Cooperation Instrument) left a gap in the EU's ability to cooperate with upper middle income countries through bilateral cooperation. As some situations in those countries may call for such support (e.g. post-crisis situations), it was found that the EU should find innovative ways of cooperation, as set out in the new European Consensus on Development<sup>29</sup> with more advanced developing countries and strategic partners, in line with the universal coverage of the 2030 Agenda.

Promoting fundamental values and human rights is at the core of the instruments. However, there were difficulties in promoting and taking this agenda forward in some countries, and the space for civil society organisations was found to be shrinking in many countries. This makes it challenging to work on these issues and highlights the tension between promoting the human rights agenda versus partners' own priority interests.

In the current context of multiple crises and conflicts, the EU needs to be able to react swiftly to changing events. However, for certain instruments, responsiveness was hindered by a lack of financial flexibility. When new priorities emerged such as the migration/refugee crisis, problems were encountered trying to reallocate funds within the instruments under the budget as large quantities had been tied up in long-term programmes not allowing enough margin. As stated in the mid-term review report, flexibility needs to be enhanced

Consistency is needed between an instrument's component parts, between different instruments and with donors. Overall, the mid-term review report notes mixed findings on coherence. In terms of coherence within the instruments, the findings were satisfactory. There was a certain level of consistency between the instruments but the multiplicity of programmes sometimes led to overlapping actions, in particular complex cooperation with more advanced developing countries. In addition, the interplay between geographic and thematic approaches sometimes resulted in inconsistent responses at country level. Feedback from EU delegations showed that they found it difficult to manage and take advantage of complementarities and to create synergies between the instruments. Overall, it was considered that the EU was missing opportunities for coordinated strategies for a given country/region.

In terms of consistency with Member States, the review found that there was potential for joint programming to be further strengthened. However, this would require more commitment in certain cases both from partner country governments and from Member States.

The mid-term review report points to positive trends emerging in relation to achieving results. However, difficulties in measuring achievements were noted. There was often limited information on monitoring systems referred to in the instruments. There was a lack of data (including baselines) to measure if the instruments were on track to meet some of their

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<sup>28</sup> In current EU cooperation, 'graduation' means that upper middle income countries are no longer eligible for EU bilateral cooperation.

<sup>29</sup> Points 91-93.



objectives (particularly the high-level ones), and an understanding that many external factors (e.g. partner country policies and other donors) influence achievement of the objectives.

In terms of mainstreaming EU priorities, significant progress was noted across existing instruments in the areas of climate change<sup>30</sup>, while more needs to be done to address the scale of other environmental challenges such as biodiversity loss and depletion of natural resources. Mainstreaming human rights, including gender equality and women's empowerment, was considered in most cases to be 'work in progress', with partner governments sometimes showing a lack of interest in, or resistance to, these areas.

While overall organisational performance was found to be efficient, some actors considered that the implementation of some instruments was administratively burdensome.

In terms of leverage, the External Investment Plan has been able to attract substantial private investment for viable business proposals designed to respond to sustainable development needs, with limited public funds. The European Fund for Sustainable Development guarantee contributes to increasing the investment needed in partner countries including in high-risk areas and sectors and has experienced a promising start. The European Fund for Sustainable Development Plus (EFSD+) and the External Action Guarantee should continue building on this positive experience.

- **Stakeholder consultations**

When drafting the evaluation documents that fed into the mid-term review report, three types of consultations with stakeholders were held. Evaluators carried out some one thousand structured or semi-structured interviews with EU officials and representatives from EU institutions, Member States and partner countries. Several technical workshops were held to present and discuss the draft evaluations with participants from the European Parliament, Council working groups, Member States committees, and civil society organisations and local authorities. An open public consultation was held in 2017<sup>31</sup>. It aimed at gathering feedback from stakeholders on the findings emerging from the evaluations of the instruments and on the future external financing instruments after 2020<sup>32</sup>.

The main messages emerging from the stakeholders consulted are summarised below.

**Flexibility:** Stakeholders agreed that the new financing instruments should be more flexible in responding to unforeseeable challenges and crises. In particular, they underlined the need to make it easier to shift funds across regions and between aid modalities. However, it was also underlined that increasing flexibility should not come at the cost of less predictability, weaker country ownership and less focus on achieving long-term development objectives. To ensure flexibility and predictability, some respondents argued in favour of having sufficient reserves.

**Coherence:** Stakeholders considered it necessary to ensure greater consistency between the internal and external policies of the EU, and between the external instruments themselves. Some emphasised the need to strengthen complementarity and synergy between geographical and thematic instruments. Others argued that the Sustainable Development Goals provide the

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<sup>30</sup> For example, 11th EDF climate contributions increased from 3.3% in 2014 to 23.3% in 2016 and DCI climate change contributions increased from 17.7% in 2014 to 24.9% in 2016. Source: Indicator 12b, EU international cooperation and development results framework with input from the OECD DAC Creditor Reporting System.

<sup>31</sup> [https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union\\_en](https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en)

<sup>32</sup> For more information on the public consultation see [https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union\\_en](https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en)

most appropriate basis for increasing consistency between internal and external policies. Most recommended that the EU take a leading role in improving complementarity between various stakeholders, both inside and outside the EU.

Some respondents highlighted the risk of overlap whereby the same policy objectives are funded by multiple instruments. Respondents also called for clear delineation of instruments, while underlining the need to ensure that geographic and thematic programmes take advantage of cross-sectoral synergies and linkages between them.

Complementarity: On the structure of future instruments, stakeholders agreed that combining geographic and thematic programmes brings positive results. They emphasised that the value of geographically structured instruments lies in their capacity to address the specific needs of partner countries in a tailored manner. This is crucial given the diversity of the challenges and needs across these countries. Global, targeted interventions offered by instruments such as the Partnership Instrument and the Instrument contributing to Stability and Peace was also appreciated by stakeholders.

Simplification: The EU was strongly encouraged to further simplify the overall architecture of the instruments. The EU should also continue its efforts to simplify cumbersome administrative and financial procedures. Civil society and local authorities emphasised that procedures and rules currently in place have important implications for their ability to become more involved in development cooperation.

Leverage: Stakeholders agreed that innovative financial instruments can play an important role in leveraging public and private financing for EU external assistance. The positive findings on the leverage effects and financial additionality of such instruments in the recent evaluation on blending<sup>33</sup> are considered encouraging. However, civil society respondents raised concerns about private sector priorities overriding poverty reduction objectives in partner countries.

This proposal responds to most of the concerns expressed by stakeholders.

- **External expertise**

The mid-term review report and associated staff working documents were largely based on a set of independent evaluation reports conducted between 2016 and 2017 (one evaluation per instrument). At the same time, an independent report was also produced on the set of external action instruments covered by the mid-term review report, drawing key lessons and messages from them<sup>34</sup>.

Beyond these recent reports, the OECD Development Assistance Committee peer review of the EU's development cooperation in 2012<sup>35</sup> came up with a set of recommendations with regard to the architecture, rules and procedures of the EU's external financing instruments. For example, the OECD called on the EU to further simplify and modernise cooperation, by reducing the number of budget items, aligning the rules of the Development Cooperation Instrument and European Development Fund, streamlining approval procedures and increasing consistency between regional and thematic programmes. The EU was asked to

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<sup>33</sup> See [https://ec.europa.eu/europeaid/evaluation-blending\\_en](https://ec.europa.eu/europeaid/evaluation-blending_en)

<sup>34</sup> See [https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union\\_en](https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en)

<sup>35</sup> <http://www.oecd.org/dac/peer-reviews/europeanunion2012dacpeerreviewmainfindingsandrecommendations.htm>

become more effective, timely and flexible both at programme level and across the set of instruments. The latter was particularly sought after in situations of fragility and crisis, in which the OECD saw significant room for improvement.

- **Impact assessment**

In 2018 the Commission carried out an impact assessment<sup>36</sup> covering the external action heading ‘Global Europe’ under the 2014-2020 Multi-annual Financial Framework focusing on the major changes proposed for external action, including streamlining several instruments into one broad instrument and the integration of the activities currently financed by the European Development Fund into the EU budget.

The analysis concluded that the advantages of not continuing to finance development activities through the European Development Fund outside the EU budget would outweigh the disadvantages as long as certain pre-conditions could be met. These included:

- the amount allocated to external action should not be less than the sum of the EDF and the other external financing instruments combined;
- the flexibilities of the EDF should be transferred to the extent possible to the EU budget; and
- the military operations financed under the European Development Fund’s African Peace Facility should continue through another off-budget mechanism – the European Peace Facility, which is the object of a separate proposal.

The impact assessment also concluded that most instruments aside from those with a very specific nature such as humanitarian aid with its principle of neutrality could be merged in one instrument, namely: the Common Implementing Regulation, Development Cooperation Instrument, European Development Fund, European Fund for Sustainable Development, External Lending Mandate, European Neighbourhood Instrument, European Instrument for Democracy and Human Rights, Guarantee Fund, Instrument contributing to Stability and Peace, and Partnership Instrument. Those instruments that should remain separate are: the instrument for pre-accession assistance; humanitarian aid; the common foreign and security policy budget; overseas countries and territories including Greenland; the EU’s Union Civil Protection Mechanism; the EU aid volunteers scheme; support for the Turkish Cypriot community; the Emergency Aid Reserve; and the new European Peace Facility.

As noted by the Commission<sup>37</sup> and supported by feedback from partners during the open public consultation, the current architecture of the external financing instruments is too complex. Streamlining a number of instruments into one broad instrument would provide an opportunity to rationalise their management and oversight systems and so reduce the administrative burden for all stakeholders. Having a simplified oversight system would allow the relevant institutions to have a better, more comprehensive view of the EU’s external expenditure.

A broad instrument would provide a more geographically and thematically comprehensive approach, facilitating the implementation of different policies in a trans-regional, multi-

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<sup>36</sup> SWD (2018) 337.

<sup>37</sup> In particular, in the ‘Reflection paper on the future of EU finances’ (June 2017), and the Communication from the Commission to the European Parliament and to the Council (February 2018).

sectoral and global way. The EU would facilitate coherent responses and synergies, breaking down thematic and geographic silos.

Overlaps would be eliminated, in particular those between the current Partnership Instrument and Development Cooperation Instrument, in relation to innovative cooperation with more advanced development countries, and between the geographic and thematic programmes (i.e. the European Development Fund geographic programmes and the Development Cooperation Instrument thematic programmes).

On 25 April 2018, the impact assessment was examined by the Regulatory Scrutiny Board and received a positive opinion with reservations<sup>38</sup> on the understanding that the assessment should be adjusted in order to integrate the Board's recommendations on certain aspects. As a result, the assessment was revised to:

- provide more information on the governance structure of the new instrument, including information on decision-making procedures;
- further explain several funding issues, including the funding baseline, the ring-fencing for regions and thematic areas and the contribution key of Member States to the European Development Fund; and
- elaborate how the future monitoring and evaluation systems would work.

The Board's opinion and the associated modifications made to the impact assessment are further described in annex 1 of the impact assessment.

- **Simplification**

A priority for the Commission across the Multiannual Financial Framework is to simplify its regulatory environment.

Streamlining a number of instruments within one broad instrument will provide an opportunity to rationalise management and oversight systems, and so reduce the administrative burden for EU institutions and Member States. Instead of focusing on multiple programming processes, debates would be more focused on political objectives and engagement with external partners. In addition, actions that receive cumulative funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.

Simplification does not mean there would be less scrutiny or accountability. The inter-institutional balance would be fully preserved. Rather, the budgetary and scrutiny powers of the European Parliament would be extended by the incorporation of the activities currently financed by the European Development Fund into the EU budget.

In terms of aligning rules, incorporating provisions from the Common Implementing Regulation will give the new instrument a coherent set of principles across all its component parts and will make it easier to understand for partners and implementing agents.

- **Fundamental rights**

The EU is founded on a strong engagement to promote and protect fundamental rights, human rights, democracy and the rule of law. It actively supports these rights and principles within its borders, but also when engaging in relations with third countries.

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<sup>38</sup> Placeholder

This Regulation replaces the existing European Instrument for Democracy and Human Rights and supports interventions in the area of human rights, fundamental freedoms and democracy in third countries. The proposal is also designed to support civil society as an effective force for political reform and defence of human rights.

#### **4. BUDGETARY IMPLICATIONS**

In its Communication of 2 May 2018<sup>39</sup>, the European Commission proposed to allocate EUR 89 200 000 000 (in current prices) to the Neighbourhood, Development and International Cooperation Instrument for 2021-2027.

#### **5. OTHER ELEMENTS**

- **Contribution of the proposed Regulation to the Union commitment to fight climate change**

In the framework of the commitments taken in the Paris Agreement, and the United Nations Sustainable Development Goals, this Regulation should contribute to mainstream climate action in the Union policies. Fighting climate change is among the greatest challenges the world is facing and where the need for national and international intervention action is urgent. In this context, the objective of the Union is to address at least 25% of its budget to fighting climate change. In order to contribute to this objective, actions under this Regulation are expected to contribute 25% of its overall financial envelope to climate objectives.

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will regularly monitor its actions and review progress made towards delivering results. In line with paragraphs 22 and 23 of the Inter-institutional Agreement of 13 April 2016<sup>40</sup>, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action, the Commission will carry out an interim and a final evaluation. The evaluations will assess the Instrument's effects on the ground based on the relevant indicators and an analysis of the degree to which the Instrument can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. The evaluations will include lessons learned to identify any problems or potential to further improve the actions or their results and to help maximise their impact.

The conclusions of the evaluations accompanied by observations will be communicated to the European Parliament and to the Council.

Progress will be monitored on the basis of indicators aligned with the objectives of the proposal. From 2022 onwards, the Commission will send the European Parliament and the Council an annual report on the achievement of the objectives of this Regulation.

Evaluations will be carried out in a timely manner to feed into the decision-making process. The Neighbourhood, Development and International Cooperation Instrument should be evaluated once there is sufficient information available on its performance.

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<sup>39</sup> COM (2018) 321, 2.5.2018.

<sup>40</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

- **Geographic scope and participation of third countries**

The proposed Regulation has a worldwide geographic scope. For this reason, a variety of actors from Member States and from outside the Union may have access to its funds and/or become partners to implement them.

As regards recipients of funds outside the Union, entities from developing countries and territories, which are the main beneficiaries of this Regulation, are eligible for Union funding. Other third countries may also be eligible, subject to the conditions laid down in Article 24 of this proposal, which are in line with the international commitments of the Union on aid effectiveness, notably the OECD Untying Recommendation<sup>41</sup> and the Nairobi High Level Forum in 2016. Article 24 establishes that, as a general rule, entities from third developed countries may only be recipient of funds under this Regulation on the basis of reciprocity of access to their own development assistance, recognised by a Commission decision. The Stability and Peace and Human Right and Democracy programmes, as well as the rapid response actions, are open to entities from all countries due to the Union interest to have the widest possible offer in light of the worldwide scope of the actions, the difficult circumstances in which assistance is provided and the need to act rapidly. International organisations are also eligible.

As regards the choice of partners outside the Union, the Commission may also decide to work with international organisations, partner countries or entities from other third countries under indirect management for the implementation of a specific action, when this is in the interest of the Union and of the objectives of such action, and subject to the rules and conditions laid down in the Financial Regulation. This choice would require a Commission decision. Furthermore, Member States and third countries may contribute to the External Action Guarantee and therefore their entities could become potentially eligible counterparts for its implementation. For third countries other than contracting parties to the Agreement on the European Economic Area, these contributions require the prior approval by the Commission. The conditions for such contribution should be reflected in an agreement between the Commission and the third country.

- **Detailed explanation of the specific provisions of the proposal**

#### TITLE I: GENERAL PROVISIONS

Subject matter — Article 1 defines the instrument created by the Regulation, which is one of the EU programmes for external action.

Definitions — Article 2 contains definitions of the basic terminology used in the Regulation.

Objectives — Article 3 sets out the general objective, applicable to all pillars of the instrument, as well as the specific objectives.

Scope and structure — Article 4 describes the various components of the instrument: geographic, thematic and rapid response. It establishes the geographic and material scope of each component and explains the relationship between the components.

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<sup>41</sup> Revised Development Assistance Committee's Recommendation on untying ODA to the Least Developed Countries and Heavily Indebted Poor countries of 12 August 2014 (DCD/DAC(2014)37/FINAL).

The geographic component consists of geographic programmes for the European Neighbourhood, Sub-Saharan Africa, Asia and the Pacific and the Americas and the Caribbean. The countries in the Neighbourhood area are listed in Annex I; the list serves as a basis for defining countries in the adjacent areas. Other countries fall within the standard geographic areas. The material scope of geographic programmes, with the areas of cooperation, is set out in Annex II.

The thematic component focuses on global challenges, notably through dedicated thematic programmes on Human Rights and Democracy, Civil Society Organisations, Stability and Peace, and Global Challenges, covering matters such as health, education and training, women and children, decent work and social protection, culture, migration, environment and climate change, sustainable energy, sustainable and inclusive growth, private sector and local authorities. These programmes are complementary to geographic programmes, with worldwide coverage. The material scope of thematic programmes, notably the areas of intervention, is set out in Annex III.

The rapid response component is dedicated to quick response capacity for crisis management, conflict prevention and peace building; strengthening resilience and linking humanitarian and development actions; and foreign policy actions needs and priorities. This component also has worldwide coverage. Areas of intervention are defined in Annex IV. Under this component, no programming is needed; implementation takes the form of direct adoption of exceptional assistance measures, action plans and individual measures.

Coherence, consistency and complementarity — Article 5 explains the relationship between this instrument and other instruments under external action, together with its links to and consistency with internal EU programmes.

Budget — Article 6 refers to the overall envelope for the instrument, and gives a detailed breakdown by geographic area, thematic programmes and rapid response action. It also refers to the ‘emerging challenges and priorities cushion’, which may increase the amounts referred to in the Article.

Policy framework — Article 7 refers to the overall policy framework for the implementation of the instrument. Existing agreements, strategies, conclusions, resolutions and other similar documents determine the policy on which implementation of the instrument would be based.

General principles — Article 8 lists the various principles applicable to the whole instrument, such as democracy, the rule of law and respect for human rights and fundamental freedoms, a rights-based approach, cooperation, dialogue, partnership, development effectiveness, mainstreaming of climate change, environmental protection and gender equality. The Article also underlines the need for cooperation with Member States. An obligation is included to inform and have regular exchanges with the European Parliament, which would allow the Commission and the European Parliament to have regular discussions on policy and the implementation of the instrument.

Capacity building for military actors in support of development and security for development – Article 9 aims at delimiting the security-related activities which may be supported through this Instrument from activities that cannot be financed under the EU budget.

## TITLE II – IMPLEMENTATION OF THE INSTRUMENT

Title II groups chapters related to the implementation of the instrument, which includes multiannual programming.

Chapter I — Programming (Articles 10-15) covers the various provisions on multiannual programming, notably the general approach, specific principles for geographic programmes, the content of programming documents for both geographic and thematic programmes, and the procedure for adopting them. Article 15 sets out how the emerging challenges and priorities cushion works.

Chapter II — Specific provisions for the Neighbourhood (Articles 16-18) contains specific rules for the Neighbourhood area, notably regarding allocation criteria, the performance-based approach and cross-border cooperation.

Chapter III — Action plans, measures and implementing methods (Articles 19-25) contains provisions that supplement the Financial Regulation, due to the specific nature of external action. Article 25 contains provisions needed to import the flexibilities of the EDF.

Chapter IV – EFSD+ budgetary guarantees and financial assistance to third countries (Articles 26-30) merges and replaces the existing provisions on the European Fund for Sustainable Development, the External Lending Mandate and the Guarantee Fund for external actions.

Chapter V — Monitoring, reporting and evaluation (Articles 31-32) contains provisions on indicators and results frameworks used in the monitoring and evaluation of external action, and on the annual report, interim and final evaluation reports.

### TITLE III - FINAL PROVISIONS

Title III (Articles 33-41) largely follows the provisions of internal policy programmes regarding institutional issues, information, communication and publicity, repeal and entry into force. A derogation with regard to visibility, a clause on the European External Action Service, and provisions on participation by a country or territory not covered by the Regulation are included.

Article 34 of this Title covers the exercise of the delegation of powers with respect to the provisioning rate (delegation of power contained in Article 26 (3), the areas of cooperation and intervention in Annex II, Annex III and Annex IV (delegation of power contained in Article 4 (6), the priority areas of the European Fund for Sustainable Development + operations and its governance in Annexes V and VI (delegation of power contained in Article 27 (9); the indicators in Annex VII and the establishment of a monitoring and evaluation framework (delegation of power contained in Article 31 (9)).

Another issue of substance relates to the committee procedure: Article 35 sets up the ‘Neighbourhood, Development and International Cooperation’ committee, pursuant to Regulation (EU) No 182/2011. That committee is in charge of delivering an opinion on multiannual programming documents and annual work programmes (action plans and measures).

The proposal has seven annexes, as follows:

- Annex I — List of countries and territories in the neighbourhood area
- Annex II — Areas of cooperation for geographic programmes
- Annex III — Areas of intervention for thematic programmes
- Annex IV — Areas of intervention for rapid response actions
- Annex V — Priority areas of the European Fund for Sustainable Development + operations



- Annex VI — Governance of the European Fund for Sustainable Development +
- Annex VII — List of key performance indicators

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the Neighbourhood, Development and International Cooperation Instrument**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 209, 212 and 322(1) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee<sup>42</sup>,

Having regard to the opinion of the Committee of the Regions<sup>43</sup>,

Having regard to the opinion of the Court of Auditors<sup>44</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The general objective of the Programme "Neighbourhood, Development and International Cooperation Instrument" (the 'Instrument') should be to uphold and promote the Union's values and interests worldwide in order to pursue the objectives and principles of the Union's external action, as laid down in Article 3(5), Articles 8 and 21 of the Treaty on European Union.
- (2) In accordance with Article 21 of the Treaty on European Union, the Union shall pursue consistency between the different areas of its external action and between these and its other policies, as well as it shall work for a high degree of cooperation in all fields of international relations. The wide array of actions enabled by this Regulation should contribute to the objectives set out in that Article of the Treaty.
- (3) In accordance with Article 8 of the Treaty on European Union, the Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation. This Regulation should contribute to such objective.
- (4) The primary objective of Union's development cooperation policy, as laid down in Article 208 of the Treaty on the Functioning of the European Union is the reduction and, in the long term, the eradication of poverty. The Union's development cooperation policy also contributes to the objectives of the Union's external action, in

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<sup>42</sup> OJ C , , p. .

<sup>43</sup> OJ C , , p. .

<sup>44</sup> Placeholder

particular to foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty, as set out in Article 21(2)(d) of the Treaty on European Union.

- (5) The Union shall ensure policy coherence for development as required by Article 208 of the Treaty on the Functioning of the European Union. The Union should take account of the objectives of development cooperation in the policies that are likely to affect developing countries, which will be a crucial element of the strategy to achieve the Sustainable Development Goals defined in the 2030 Agenda for Sustainable Development ('2030 Agenda') adopted by the United Nations in September 2015<sup>45</sup>. Ensuring policy coherence for sustainable development, as embedded in the 2030 Agenda, requires taking into account the impact of all policies on sustainable development at all levels — nationally, within the Union, in other countries and at global level.
- (6) This Instrument provides for actions in support of those objectives and of the external action policies and builds on the actions previously supported under Regulation (EU) No 233/2014<sup>46</sup>; the 11th European Development Fund (EDF)'s Internal Agreement<sup>47</sup> and Implementing Regulation<sup>48</sup>; Regulation (EU) No 232/2014<sup>49</sup>; Regulation (EU) No 230/2014<sup>50</sup>; Regulation (EU) No 235/2014<sup>51</sup>; Regulation (EU) No 234/2014<sup>52</sup>; Regulation (Euratom) No 237/2014<sup>53</sup>; Regulation (EU) No 236/2014<sup>54</sup>; Decision No 466/2014/EU; Regulation (EC, Euratom) No 480/2009<sup>55</sup> and Regulation (EU) 2017/1601<sup>56</sup>.

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<sup>45</sup> "Transforming our world: the 2030 Agenda for Sustainable Development", adopted at the United Nations Sustainable Development Summit on 25 September 2015 (A/RES/70/1).

<sup>46</sup> Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L 77, 15.3.2014, p. 44.)

<sup>47</sup> Internal agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L210/1, 6.8.2013).

<sup>48</sup> Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11<sup>th</sup> European Development Fund (OJ L 58/1, 3.3.2015).

<sup>49</sup> Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27.)

<sup>50</sup> 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 (OJ L 77, 15.3.2014, p. 1.)

<sup>51</sup> Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (OJ L 77, 15.3.2014, p. 85.)

<sup>52</sup> Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries (OJ L 77, 15.3.2014, p. 77.)

<sup>53</sup> Council Regulation (Euratom) No 237/2014 of 13 December 2013 establishing an Instrument for Nuclear Safety Cooperation (OJ L 77, 15.3.2014, p. 109)

<sup>54</sup> Regulation (EU) 236/2014 of the European Parliament and of the Council laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77, 15.3.2014, p. 95)

<sup>55</sup> Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10)

<sup>56</sup> Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund.

- (7) The global context for action is the pursuit of a rules-based global order, with multilateralism as its key principle and the United Nations at its core. The 2030 Agenda, together with the Paris Agreement on Climate Change<sup>57</sup> and the Addis Ababa Action Agenda<sup>58</sup> is the international community's response to global challenges and trends in relation to sustainable development. With the Sustainable Development Goals at its core, the 2030 Agenda is a transformative framework to eradicate poverty and achieve sustainable development globally. It is universal in scope, providing a comprehensive shared framework for action that applies to the Union, to its Member States and to its partners. It balances the economic, social and environmental dimensions of sustainable development, recognising the essential interlinkages between its goals and targets. The 2030 Agenda aims to leave no one behind. The implementation of the 2030 Agenda will be closely coordinated with the Union's other relevant international commitments. Actions undertaken by this Regulation should pay particular attention to interlinkages between Sustainable Development Goals and to integrated actions that can create co-benefits and meet multiple objectives in a coherent way.
- (8) The implementation of this Regulation should be guided by the five priorities established in the Global Strategy for the European Union's Foreign and Security Policy (the 'Global Strategy')<sup>59</sup>, presented on 19 June 2016, which represents the Union's vision and the framework for united and responsible external engagement in partnership with others, to advance its values and interests. The Union should enhance partnerships, promote policy dialogue and collective responses to challenges of global concern. Its action should support the Union's interests and values in all its aspects, including preserving peace, preventing conflicts, strengthening international security, fighting root causes of irregular migration and assisting populations, countries and regions confronting natural or man-made disasters, supporting trade policy, economic diplomacy and economic cooperation, promoting digital solutions and technologies, and fostering the international dimension of Union's policies. In promoting its interests, the Union should comply with, and promote, the principles of respect for high social and environmental standards, for the rule of law, for international law and for human rights.
- (9) The new European Consensus on Development ('the Consensus')<sup>60</sup>, signed on 7 June 2017, provides the framework for a common approach to development cooperation by the Union and its Member States to implement the 2030 Agenda and the Addis Ababa Action Agenda. Eradicating poverty, tackling discrimination and inequalities, leaving no one behind and strengthening resilience are at the heart of development cooperation policy.
- (10) In order to implement the new international framework established by the 2030 Agenda, the Global Strategy and the Consensus, this Regulation should aim at increasing the coherence and ensuring the effectiveness of the Union's external action

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<sup>57</sup> Signed in New York on 22 April 2016.

<sup>58</sup> "Addis Ababa Action Agenda of the Third International Conference on Financing for Development", adopted on 16 June 2015 and endorsed by the United Nations General Assembly on 27 July 2015 (A/RES/69/313).

<sup>59</sup> "Shared Vision, Common Action: A Stronger Europe. A global Strategy for the European Union's Foreign and Security Policy", June 2016.

<sup>60</sup> "The New European Consensus on Development 'Our World, our Dignity, Our Future'", Joint statement by the Council and the Representatives of the governments of the Member States meeting within the Council, the European Parliament and the European Commission, 8 June 2017.

by concentrating its efforts through a streamlined instrument to improve the implementation of the different external action policies.

- (11) In accordance with the Global Strategy and the Sendai Framework for Disaster Risk Reduction (2015-2030) as adopted on 18 March 2015<sup>61</sup>, recognition should be given to the need to move away from crisis response and containment to a more structural, long-term approach that more effectively addresses situations of fragility, natural and man-made disasters, and protracted crises. Greater emphasis and collective approaches are required on risk reduction, prevention, mitigation and preparedness; and further efforts are required to enhance swift response and a durable recovery. This Regulation should therefore contribute to strengthening resilience and linking humanitarian aid and development action through rapid response actions.
- (12) In line with the international commitments of the Union on development effectiveness as adopted in Busan in 2011 and renewed at the Nairobi High Level Forum in 2016 and recalled in the Consensus, the Union's development cooperation should apply the development effectiveness principles, namely ownership of development priorities by developing countries, a focus on results, inclusive development partnerships as well as transparency and accountability.
- (13) Pursuant to the Sustainable Development Goals, this Regulation should contribute to reinforced monitoring and reporting with a focus on results, covering outputs, outcomes and impacts in partner countries benefiting from the Union's external financial assistance. In particular, as agreed in the Consensus, actions under this Regulation are expected to contribute 20% of the Official Development Assistance funded under this Regulation to social inclusion and human development, including gender equality and women's empowerment.
- (14) Whenever possible and appropriate, the results of the Union's external action should be monitored and assessed on the basis of pre-defined, transparent, country-specific and measurable indicators, adapted to the specificities and objectives of the Instrument and preferably based on the results framework of the partner country.
- (15) This Regulation should contribute to the collective Union objective of providing 0.7% of Gross National Income as Official Development Assistance within the timeframe of the 2030 Agenda. In that regard, at least 92% of the funding under this Regulation should contribute to actions designed in such a way that they fulfil the criteria for Official Development Assistance as established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development.
- (16) In order to ensure resources are provided to where the need is greatest, especially to the Least Developed Countries and the countries in situation of fragility and conflict, this Regulation should contribute to the collective target of reaching 0.20% of the Union Gross National Income towards Least Developed Countries within the timeframe of the 2030 Agenda.
- (17) This Regulation should reflect the need to focus on strategic priorities, both geographically – the European Neighbourhood and Africa, as well as countries that are fragile and most in need, but also thematically – security, migration, climate change and human rights.

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<sup>61</sup> "Sendai Framework for Disaster Risk Reduction", adopted on 18 March 2015 and endorsed by the United Nations General Assembly on 3 June 2015 (A/RES/69/283).

- (18) This Regulation should support the implementation of the European Neighbourhood Policy, as reviewed in 2015, and the implementation of regional cooperation frameworks, such as cross-border cooperation and the external aspects of relevant macro-regional and sea basin strategies and policies. Those initiatives offer political frameworks for deepening relations with and among partner countries, based on the principles of mutual accountability, shared ownership and responsibility.
- (19) The European Neighbourhood Policy, as reviewed in 2015<sup>62</sup>, aims at the stabilisation of neighbouring countries and strengthening resilience, particularly by boosting economic development, as the Union's main political priorities. In order to attain its objective, the reviewed European Neighbourhood Policy has been focusing on four priority areas: good governance, democracy, the rule of law and human rights, with a particular focus in engaging further with civil society; economic development; security; migration and mobility, including tackling the root causes of irregular migration and forced displacement. Differentiation and enhanced mutual ownership are the hallmark of the European Neighbourhood Policy, recognising different levels of engagement, and reflecting the interests of each country concerning the nature and focus of its partnership with the Union.
- (20) This Regulation should support the implementation of a modernised association agreement with countries of the Africa, Caribbean and Pacific (ACP) Group of States and allow the EU and its ACP partners to develop further strong alliances on key global challenges. In particular, this Regulation should support the continuation of the established cooperation between the Union and the African Union in line with the Joint Africa-EU Strategy and build on the future EU-ACP agreement after 2020, including through a continental approach towards Africa.
- (21) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence and complementarity among the Union's external financing instruments, notably the Instrument for Pre-Accession III<sup>63</sup>, the Humanitarian Aid Instrument<sup>64</sup>, the Decision on Overseas Countries and Territories<sup>65</sup>, the European Instrument for Nuclear Safety to complement the Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty<sup>66</sup>, the common foreign and security policy and the newly proposed European Peace Facility<sup>67</sup> which is financed outside the Union budget, as well as the creation of synergies with other Union policies and Programmes. This includes coherence and complementarity with macro-financial assistance, where relevant. In order to maximise the impact of combined interventions

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<sup>62</sup> Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Review of the European Neighbourhood policy", 18 November 2015.

<sup>63</sup> COM (2018) 465 final Proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III)

<sup>64</sup> Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

<sup>65</sup> COM(2018) 461 final Proposal for a Council Decision on the Association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Overseas Association Decision').

<sup>66</sup> COM(2018) 462 final Proposal for a Council Regulation establishing a European Instrument for Nuclear Safety complementing the Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty.

<sup>67</sup> C(2018) 3800 final Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision establishing a European Peace Facility.

to achieve a common objective, this Regulation should allow for the combination of funding with other Union Programmes, as long as the contributions do not cover the same costs.

- (22) Funding from this Regulation should be used to finance actions under the international dimension of Erasmus, the implementation of which should be done according to the Erasmus Regulation<sup>68</sup>.
- (23) The main approach for actions financed under this Regulation should be through geographic programmes, in order to maximise the impact of the Union's assistance and bring Union's action closer to partner countries and populations. This general approach should be complemented by thematic programmes and by rapid response actions, where relevant.
- (24) In line with the Consensus, the Union and its Member States should enhance joint programming to increase their collective impact by bringing together their resources and capacities. Joint programming should build on the partner countries' engagement, appropriation and ownership. The Union and its Member States should seek to support partner countries through joint implementation, whenever appropriate.
- (25) Whilst democracy and human rights, including gender equality and women's empowerment should be reflected throughout the implementation of this Regulation, Union assistance under the thematic programmes for human rights and democracy and civil society organisations should have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of the governments and public authorities of the third countries concerned.
- (26) Civil society organisations should embrace a wide range of actors with different roles and mandates which includes all non-State, not-for-profit structures, non-partisan and non-violent, through which people organise to pursue shared objectives and ideals, whether political, cultural, social or economic. Operating from the local to the national, regional and international levels, they comprise urban and rural, formal and informal organisations.
- (27) This Regulation lays down a financial envelope for this Instrument, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>69</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (28) Reflecting the importance of tackling climate change in line with the Union commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Regulation should contribute to mainstream climate action in the Union policies and to the achievement of an overall target of 25 % of the Union budget expenditures supporting climate objectives. Actions under this Regulation are expected to contribute 25% of its overall financial envelope to climate objectives. Relevant actions will be identified during the implementation of this Regulation, and

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<sup>68</sup> COM (2018) 367 final Proposal for a Regulation of the European Parliament and of the Council establishing 'Erasmus': the Union programme for education, training, youth and sport and repealing Regulation (EU) 1288/2013

<sup>69</sup> OJ C 373, 20.12.2013, p. 1.

the overall contribution from this Regulation should be part of relevant evaluations and review processes.

- (29) It is essential to further step up cooperation on migration with partner countries, reaping the benefits of well-managed and regular migration and effectively addressing irregular migration. Such cooperation should contribute to ensuring access to international protection, addressing the root causes of irregular migration, enhancing border management and pursuing efforts in the fight against irregular migration, trafficking in human beings and migrant smuggling, and working on returns, readmission and reintegration where relevant, on the basis of mutual accountability and full respect of humanitarian and human rights obligations. Therefore, third countries' effective cooperation with the Union in this area should be an integral element in the general principles of this Regulation. An increased coherence between migration and development cooperation policies is important to ensure that development assistance supports partner countries to manage migration more effectively. This Regulation should contribute to a coordinated, holistic and structured approach to migration, maximising the synergies and applying the necessary leverage.
- (30) This Regulation should enable the Union to respond to challenges, needs and opportunities related to migration, in complementarity with Union migration policy. To contribute to that end, and without prejudice to unforeseen circumstances, 10% of its financial envelope is expected to be dedicated to addressing the root causes of irregular migration and forced displacement and to supporting migration management and governance including the protection of refugees and migrants' rights within the objectives of this Regulation.
- (31) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union should apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, financial assistance, budget support, trust funds, financial instruments and budgetary guarantees, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in Member States and third countries, as the respect for the rule of law is essential for sound financial management and effective EU funding.
- (32) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (33) The new European Fund for Sustainable Development Plus ('EFSD+'), building on its successful predecessor, the EFSD<sup>70</sup>, should constitute an integrated financial package supplying financing capacity in the form of grants, budgetary guarantees and financial

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<sup>70</sup> Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund.



instruments worldwide. The EFSD+ should support the External Investment Plan and combine blending and budgetary guarantee operations covered by the External Action Guarantee, including those covering sovereign risks associated with lending operations, previously carried out under the external lending mandate to the European Investment Bank. Given its role under the Treaties and its experience over the last decades in supporting Union policies, the European Investment Bank should remain a natural partner for the Commission for the implementation of operations under the External Action Guarantee.

- (34) The EFSD+ should aim at supporting investments as a means of contributing to the achievement of the Sustainable Development Goals by fostering sustainable and inclusive economic and social development and promoting the socio-economic resilience in partner countries with a particular focus on the eradication of poverty, sustainable and inclusive growth, the creation of decent jobs, economic opportunities, skills and entrepreneurship, socioeconomic sectors, micro, small and medium-sized enterprises as well as addressing specific socioeconomic root causes of irregular migration, in accordance with the relevant indicative programming documents. Special attention should be given to countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries.
- (35) The EFSD+ should maximise additionality of funding, address market failures and sub-optimal investment situations, deliver innovative products and ‘crowd-in’ private sector funds. Involvement of the private sector in the Union’s cooperation with partner countries through the EFSD+ should yield measurable and additional development impact without distorting the market and should be cost-effective based on mutual accountability and risk and cost sharing. The EFSD+ should operate as a ‘one-stop-shop’, receiving financing proposals from financial institutions and public or private investors and delivering a wide range of financial support to eligible investments.
- (36) An External Action Guarantee should be established building on the existing EFSD Guarantee and the Guarantee Fund for external actions. The External Action Guarantee should support the EFSD+ operations covered by budgetary guarantees, macro-financial assistance and loans to third countries on the basis of Council Decision 77/270/Euratom<sup>71</sup>. These operations should be supported by appropriations under this Regulation, together with those under Regulation (EU) No .../... (IPA III) and Regulation (EU) No .../... (EINS), which should also cover the provisioning and liabilities arising from macro-financial assistance loans and loans to third countries referred to in Article 10(2) of Regulation EINS, respectively. When funding EFSD+ operations, priority should be given to those which have a high impact on job creation and whose cost-benefit ratio enhances the sustainability of investment. The operations supported with the External Action Guarantee should be accompanied by an in-depth *ex ante* assessment of environmental, financial and social aspects, as appropriate and in line with the better regulation requirements. The External Action Guarantee should not be used to provide essential public services, which remains a government responsibility.
- (37) In order to provide for flexibility, increase the attractiveness for the private sector and maximise the impact of the investments a derogation from the rules related to the

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<sup>71</sup> Council decision 77/270/EURATOM of 29 March 1977 empowering the Commission to issue Euratom loans for the purpose of contributing to the financing of nuclear power stations (OJ L 88, 6.4.1977, p. 9).

methods of implementation of the Union budget, as laid down in the Financial Regulation, should be provided as regards the eligible counterparts. Those eligible counterparts could also be bodies which are not entrusted with the implementation of a public-private partnership and could also be bodies governed by the private law of a partner country.

- (38) In order to increase the impact of the External Action Guarantee, Member States and contracting parties to the Agreement on the European Economic Area should have the possibility of providing contributions in the form of cash or a guarantee. Contribution in the form of a guarantee should not exceed 50% of the amount of operations guaranteed by the Union. The financial liabilities arising from this guarantee should not be provisioned and the liquidity cushion should be provided by the common provisioning fund.
- (39) External actions are often implemented in a highly volatile environment requiring continuous and rapid adaptation to the evolving needs of Union partners and to global challenges to human rights, democracy and good governance, security and stability, climate change and environment, oceans, and the migration crisis and its root causes. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial implementation of the programmes. To increase the ability of the EU to respond to unforeseen needs, building on the successful experience of the European Development Fund (EDF), an amount should be left unallocated as an emerging challenges and priorities cushion. It should be mobilised in accordance with the procedures established in this Regulation.
- (40) Therefore, while respecting the principle that the Union budget is set annually, this Regulation should preserve the possibility to apply the flexibilities already allowed by the Financial Regulation for other policies, namely carryovers and re-commitments of funds, to ensure efficient use of the Union funds both for Union citizens and the partner countries, thus maximising the Union funds available for the Union's external action interventions.
- (41) Pursuant to Article 83 of Council Decision .../... (OCTs), persons and entities established in overseas countries and territories should be eligible for funding under this Regulation, subject to its rules and objectives and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked. Moreover, cooperation between the partner countries and the overseas countries and territories as well as the Union outermost regions under Article 349 of the Treaty on the Functioning of the European Union should be encouraged in areas of common interest.
- (42) In order to enhance partner countries' ownership of their development processes and the sustainability of external aid, the Union should, where relevant, favour the use of partner countries' own institutions and of partner countries' systems and procedures for all aspects of the project cycle for cooperation.
- (43) Annual or multi-annual action plans and measures referred to in Article 19 constitute work programmes under the Financial Regulation. Annual or multi-annual action plans consist of a set of measures grouped into one document.

- (44) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>72</sup>, Council Regulation (EC, Euratom) No 2988/95<sup>73</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>74</sup> and Council Regulation (EU) 2017/1939<sup>75</sup>, the financial interests of the Union are to be protected through effective and proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371<sup>76</sup> of the European Parliament and of the Council. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests and grant the necessary rights and access to the Commission, OLAF and the European Court of Auditors, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights; for this reason, agreements with third countries and territories and with international organisations, and any contract or agreement resulting from the implementation of this Regulation should contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections, according to their respective competences and ensuring that any third parties involved in the implementation of Union funding grant equivalent rights.
- (45) In order to ensure uniform conditions for the implementation of the relevant provisions of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011<sup>77</sup> of the European Parliament and of the Council.
- (46) In order to supplement or amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the provisioning rates laid down in Article 26(3), the areas of cooperation and intervention listed in Annexes II, III and IV, the priority areas of the EFSD+ operations listed in Annex V,

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<sup>72</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p.1)

<sup>73</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

<sup>74</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p.2)

<sup>75</sup> OJ L 283, 31.10.2017, p.1.

<sup>76</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ 198, 28.7.2017, p.29)

<sup>77</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13)

the governance of the EFSD+ in Annex VI, to review or complement the indicators in Annex VII where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

- (47) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>78</sup>, there is a need to evaluate this Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Programme on the ground. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (48) The references to Union instruments in Article 9 of Council Decision 2010/427/EU<sup>79</sup>, which are replaced by this Regulation, should be read as references to this Regulation and the Commission should ensure that this Regulation is implemented in accordance with the role of the EEAS as provided in that Decision.
- (49) The envisaged actions as provided for hereunder should strictly follow the conditions and procedures set out by the restrictive measures of the Union,

HAVE ADOPTED THIS REGULATION:

## **TITLE I**

### **GENERAL PROVISIONS**

#### *Article 1*

#### ***Subject matter***

This Regulation establishes the Programme “Neighbourhood, Development and International Cooperation Instrument” (the ‘Instrument’).

It lays down the objectives of the Instrument, the budget for the period 2021 – 2027, the forms of Union funding and the rules for providing such funding.

It also establishes the European Fund for Sustainable Development Plus (the ‘EFSD+’) and an External Action Guarantee.

#### *Article 2*

#### ***Definitions***

For the purposes of this Regulation, the following definitions apply:

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<sup>78</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

<sup>79</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

- (1) “country programme” shall mean an indicative programme covering one country;
- (2) “multi-country programme” shall mean an indicative programme covering more than one country;
- (3) “cross-border cooperation” shall mean cooperation between one or more Member States, and one or more third countries and territories along the external borders of the Union.
- (4) “regional programme” shall mean an indicative multi-country programme covering more than one third country within the same geographic area as established in Article 4 (2);
- (5) “trans-regional programme” shall mean an indicative multi-country programme covering more than one third country from different areas as established in Article 4 (2) of this Regulation;
- (6) “legal entity” shall mean any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;
- (7) “investment window” shall mean a targeted area for support by the EFSD+ Guarantee to portfolios of investments in specific regions, countries or sectors;
- (8) “contributor” shall mean a Member State, an international finance institution, or a public institution of a Member State, a public agency or other entities contributing in cash or in guarantees to the common provisioning fund.

### *Article 3* *Objectives*

1. The general objective of this Regulation is to uphold and promote the Union’s values and interests worldwide in order to pursue the objectives and principles of the Union’s external action, as laid down in Article 3(5), Articles 8 and 21 of the Treaty on European Union.
2. In accordance with paragraph 1, the specific objectives of this Regulation are the following:
  - (a) to support and foster dialogue and cooperation with third countries and regions in the Neighbourhood, in Sub-Saharan Africa, in Asia and the Pacific, and in the Americas and the Caribbean;
  - (b) at global level, to consolidate and support democracy, rule of law and human rights, support civil society organisations, further stability and peace and address other global challenges including migration and mobility;
  - (c) to respond rapidly to: situations of crisis, instability and conflict; resilience challenges and linking of humanitarian aid and development action; and foreign policy needs and priorities.

The achievement of these objectives shall be measured using relevant indicators as referred to in Article 31.

3. At least 92% of the expenditure under this Regulation shall fulfil the criteria for Official Development Assistance, established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development.

*Article 4*  
***Scope and structure***

1. Union funding under this Regulation shall be implemented through:
  - (a) geographic programmes;
  - (b) thematic programmes;
  - (c) rapid response actions.
2. The geographic programmes shall encompass country and multi-country cooperation in the following areas:
  - (a) Neighbourhood;
  - (b) Sub-Saharan Africa;
  - (c) Asia and the Pacific;
  - (d) Americas and the Caribbean.

Geographic programmes may cover all third countries, except for candidates and potential candidates as defined in Regulation (EU) No .../...<sup>80</sup> (IPA) and overseas countries and territories as defined in Council Decision .../... (EU).

Geographic programmes in the Neighbourhood area may cover any country referred to in Annex I.

In order to attain the objectives laid down in Article 3, geographic programmes shall be based on the areas of cooperation listed in Annex II.

3. The thematic programmes shall encompass actions linked to the pursuit of the Sustainable Development Goals at global level, in the following areas:
  - (a) Human Rights and Democracy;
  - (b) Civil Society Organisations;
  - (c) Stability and Peace;
  - (d) Global Challenges.

Thematic programmes may cover all third countries as well as overseas countries and territories as defined in Council Decision .../... (EU).

In order to attain the objectives laid down in Article 3, thematic programmes shall be based on the areas of intervention listed in Annex III.

4. The rapid response actions shall enable early action to:
  - (a) contribute to stability and conflict prevention in situations of urgency, emerging crisis, crisis and post-crisis;

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<sup>80</sup> Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (OJ L ).

- (b) contribute to strengthening resilience of states, societies, communities and individuals and to linking humanitarian aid and development action;
- (c) address foreign policy needs and priorities.

Rapid response actions may cover all third countries as well as overseas countries and territories as defined in Council Decision .../... (EU).

In order to attain the objectives laid down in Article 3, rapid response actions shall be based on the areas of intervention listed in Annex IV.

- 5. Actions under this Regulation shall be primarily implemented through geographic programmes.

Actions implemented through thematic programmes shall be complementary to actions funded under geographic programmes and shall support global and trans-regional initiatives for achieving internationally agreed goals, in particular the Sustainable Development Goals, protecting global public goods or addressing global challenges. Actions through thematic programmes may also be undertaken where there is no geographic programme, or where it has been suspended, or where there is no agreement on the action with the partner country concerned, or where the action cannot be adequately addressed by geographic programmes.

Rapid response actions shall be complementary to geographic and thematic programmes. These actions shall be designed and implemented to enable, where relevant, their continuity under geographic or thematic programmes.

- 6. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to supplement or amend Annexes II, III and IV.

#### *Article 5*

##### *Coherence, consistency and complementarity*

- 1. In implementing this Regulation, consistency, synergies and complementarity with other areas of Union external action, with other relevant Union policies and Programmes, as well as policy coherence for development shall be ensured.
- 2. Actions falling within the scope of Council Regulation (EC) No 1257/96 shall not be funded under this Regulation.
- 3. Where appropriate, other Union Programmes may contribute to actions established under this Regulation, provided that the contributions do not cover the same costs. This Regulation may also contribute to measures established under other Union Programmes, provided that the contributions do not cover the same costs. In such cases, the work programme covering those actions shall establish which set of rules shall be applicable.

#### *Article 6*

##### *Budget*

- 1. The financial envelope for the implementation of this Regulation for the period 2021 – 2027 shall be EUR 89 200 million in current prices.
- 2. The financial envelope referred to in paragraph 1 shall be composed of:
  - (a) EUR 68 000 million for geographic programmes:

- Neighbourhood at least EUR 22 000 million,
  - Sub-Saharan Africa at least EUR 32 000 million,
  - Asia and the Pacific EUR 10 000 million,
  - Americas and the Caribbean EUR 4 000 million,
- (b) EUR 7 000 million for thematic programmes:
- Human Rights and Democracy EUR 1 500 million,
  - Civil Society Organisations EUR 1 500 million,
  - Stability and Peace EUR 1 000 million,
  - Global Challenges EUR 3 000 million,
- (c) EUR 4 000 million for rapid response actions.
3. The emerging challenges and priorities cushion of an amount of EUR 10 200 million shall increase the amounts referred to in paragraph 2 in accordance with Article 15.
  4. The financial envelope referred to in paragraph 2 (a) shall correspond to at least 75 % of the financial envelope referred to in paragraph 1.

#### *Article 7*

#### ***Policy framework***

The association agreements, partnership and cooperation agreements, multilateral agreements, and other agreements that establish a legally binding relationship with partner countries, as well as, European Council conclusions and Council conclusions, summit declarations or conclusions of high-level meetings with partner countries, relevant European Parliament resolutions, communications of the Commission or Joint communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, shall constitute the overall policy framework for the implementation of this Regulation.

#### *Article 8*

#### ***General principles***

1. The Union shall seek to promote, develop and consolidate the principles of democracy, the rule of law and respect for human rights and fundamental freedoms on which it is founded, through dialogue and cooperation with partner countries and regions.
2. A rights-based approach encompassing all human rights, whether civil and political or economic, social and cultural shall be applied in order to integrate human rights principles, to support the right holders in claiming their rights with a focus on poorer and more vulnerable groups and to assist partner countries in implementing their international human rights obligations. This Regulation shall promote gender equality and women's empowerment.
3. The Union shall support, as appropriate, the implementation of bilateral, regional and multilateral cooperation and dialogue, partnership agreements and triangular cooperation.



The Union shall promote a multilateral and rules-based approach to global goods and challenges and shall cooperate with Member States, partner countries, international organisations and other donors in that respect.

The Union shall foster cooperation with international organisations and other donors.

In relations with partner countries, their track record in implementing commitments, international agreements, and contractual relations with the Union shall be taken into account.

4. Cooperation between the Union and the Member States, on the one hand, and partner countries, on the other hand, shall be based on and shall promote the development effectiveness principles, where applicable, namely: ownership of development priorities by partner countries, a focus on results, inclusive development partnerships, transparency and mutual accountability. The Union shall promote effective and efficient resource mobilisation and use.

In line with the principle of inclusive partnership, where appropriate, the Commission shall ensure that relevant stakeholders of partner countries, including civil society organisations and local authorities, are duly consulted and have timely access to relevant information allowing them to play a meaningful role during the design, implementation and associated monitoring processes of programmes.

In line with the principle of ownership the Commission, where appropriate, shall favour the use of partner countries' systems for the implementation of programmes.

5. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies and shall consult each other on their assistance programmes, including in international organisations and during international conferences.
6. Programmes and actions under this Regulation shall mainstream climate change, environmental protection and gender equality and shall address interlinkages between Sustainable Development Goals, to promote integrated actions that can create co-benefits and meet multiple objectives in a coherent way. These programmes and actions shall be based on an analysis of risks and vulnerabilities, integrate a resilience approach and be conflict sensitive. They shall be guided by the principle of leaving no one behind.
7. A more coordinated, holistic and structured approach to migration shall be pursued with partners and its effectiveness be regularly assessed.
8. The Commission shall inform and have regular exchanges of views with the European Parliament.

#### *Article 9*

#### ***Capacity building of military actors in support of development and security for development***

1. In accordance with Article 41(2) of the Treaty on European Union, Union funding under this Regulation shall not be used to finance the procurement of arms or ammunition, or operations having military or defence implications.
2. In order to contribute to sustainable development, which requires the achievement of stable, peaceful and inclusive societies, Union assistance under this Regulation may be used in the context of a wider security sector reform or to build the capacity of military actors in partner countries, under the exceptional circumstances set out in

paragraph 4, to deliver development activities and security for development activities.

3. Assistance pursuant to this Article may cover in particular the provision of capacity building programmes in support of development and security for development, including training, mentoring and advice, as well as the provision of equipment, infrastructure improvements and services directly related to that assistance.
4. Assistance pursuant to this Article shall be provided only:
  - (a) where requirements cannot be met by recourse to non-military actors to adequately reach Union objectives under this Regulation and there is a threat to the existence of functioning State institutions or to the protection of human rights and fundamental freedoms and State institutions cannot cope with that threat; and
  - (b) where a consensus exists between the partner country concerned and the Union that military actors are key for preserving, establishing or re-establishing the conditions essential for sustainable development, including in crises and fragile or destabilised contexts and situations.
5. Union assistance pursuant to this Article shall not be used to finance capacity building of military actors for purposes other than the delivery of development activities and security for development activities. In particular, it shall not be used to finance:
  - (a) recurrent military expenditure;
  - (b) the procurement of arms and ammunition, or any other equipment designed to deliver lethal force;
  - (c) training which is designed to contribute specifically to the fighting capacity of the armed forces.
6. When designing and implementing measures pursuant to this Article, the Commission shall promote ownership by the partner country. It shall also develop the necessary elements and the good practices required to ensure sustainability in the medium and long term and shall promote the rule of law and established international law principles.
7. The Commission shall establish appropriate risk assessment, monitoring and evaluation procedures for measures pursuant to this Article.

## **TITLE II IMPLEMENTATION OF THIS REGULATION**

### **Chapter I Programming**

#### *Article 10 General programming approach*

1. Cooperation and interventions under this Regulation shall be programmed, except for rapid response actions referred to in Article 4 (4).

2. On the basis of Article 7, programming under this Regulation shall be based on the following:
  - (a) programming documents shall provide a coherent framework for cooperation between the Union and partner countries or regions, consistent with the overall purpose and scope, objectives and principles set out in this Regulation;
  - (b) the Union and the Member States shall consult each other at an early stage of and throughout the programming process in order to promote coherence, complementarity and consistency among their cooperation activities. Joint programming shall be the preferred approach for country programming. Joint programming shall be open to other donors where relevant;
  - (c) the Union shall also consult other donors and actors, including representatives of civil society and local authorities, where relevant;
  - (d) the Human Rights and Democracy and Civil Society thematic programmes referred to in Article 4(3)(a) and (b) shall provide assistance independently of the consent of governments and other public authorities of the third countries concerned. These thematic programmes shall mainly support civil society organisations.

#### *Article 11*

#### ***Programming principles for geographic programmes***

1. Programming of geographic programmes shall be based on the following principles:
  - (a) without prejudice to paragraph 4, actions shall be based, to the extent possible, on a dialogue between the Union, the Member States and the partner countries concerned, including national and local authorities, involving civil society, national and local parliaments and other stakeholders, in order to enhance ownership of the process and to encourage support for national and regional strategies;
  - (b) where appropriate, the programming period shall be synchronised with the strategy cycles of partner countries;
  - (c) programming may envisage cooperation activities funded from different allocations listed in Article 6(2) and from other Union Programmes according to their basic acts.
2. Programming of geographic programmes shall provide a specific, tailor-made framework for cooperation based on:
  - (a) the partners' needs, established on the basis of specific criteria, taking into account the population, poverty, inequality, human development, economic and environmental vulnerability, and state and societal resilience;
  - (b) the partners' capacities to generate and access financial resources and on their absorption capacities;
  - (c) the partners' commitments and performance, established on the basis of criteria such as political reform and economic and social development;
  - (d) the potential impact of Union funding in partner countries and regions;

- (e) the partner's capacity and commitment to promote shared interests and values, and to support common goals and multilateral alliances, as well as the advancement of Union priorities.
3. The countries most in need, in particular the Least Developed Countries, low income countries, countries in crisis, post-crisis, fragile and vulnerable situations, including small islands developing states, shall be given priority in the resource allocation process.
  4. Cooperation with industrialised countries shall focus on the promotion of Union and mutual interests.
  5. Programming documents for geographic programmes shall be results-based and shall take into account, where appropriate, internationally agreed targets and indicators, in particular those set out for the Sustainable Development Goals, as well as country-level result frameworks, to assess and communicate the Union contribution to results, at the level of outputs, outcomes and impact.
  6. When drawing up the programming documents for countries and regions in crisis, or post-crisis, fragile and vulnerable situations, due account shall be taken of the special needs and circumstances of the countries or regions concerned.  
  
Where partner countries or regions are directly involved in, or affected by, a crisis, post-crisis or situation of fragility, special emphasis shall be placed on stepping up coordination amongst all relevant actors to help the transition from an emergency situation to the development phase.
  7. This Regulation shall contribute to actions established under Regulation (EU) No. .../... (Erasmus). A single programming document shall be drawn up from this Regulation for seven years, including funds from Regulation (EU) No .../... (IPA III). Regulation (EU) No. .../... (Erasmus) shall apply to the use of these funds.

#### *Article 12*

#### ***Programming documents for geographic programmes***

1. The implementation of this Regulation shall be carried out for geographic programmes through multiannual country and multi-country indicative programmes.
2. Multiannual indicative programmes shall set out the priority areas selected for Union financing, the specific objectives, the expected results, clear and specific performance indicators, and the indicative financial allocations, both overall and per priority area.
3. The multiannual indicative programmes shall be built on:
  - (a) a national or regional strategy in the form of a development plan or a similar document accepted by the Commission as a basis for the corresponding multiannual indicative programme, at the time of adoption of the latter document;
  - (b) a framework document laying down the Union policy towards the concerned partner or partners, including a joint document between the Union and Member States;
  - (c) a joint document between the Union and the concerned partner or partners setting out common priorities.

4. To increase the impact of collective cooperation of the Union, where possible, a joint programming document shall replace the Union's and Member States programming documents. A joint programming document may replace the Union's multiannual indicative programme, provided it complies with Articles 10 and 11, contains the elements listed in paragraph 2 of this Article and sets out the division of labour between the Union and Member States.

#### *Article 13*

#### ***Programming documents for thematic programmes***

1. The implementation of this Regulation shall be carried out for thematic programmes through multiannual indicative programmes.
2. Multiannual indicative programmes for thematic programmes shall set out the Union's strategy, the priorities selected for financing by the Union, the specific objectives, the expected results, clear and specific performance indicators, and the international situation and the activities of the main partners for the theme concerned.

Where applicable, resources and intervention priorities shall be laid down for participation in global initiatives.

Multiannual indicative programmes for thematic programmes shall set out the indicative financial allocation, overall, by area of cooperation and by priority. The indicative financial allocation may be given in the form of a range.

#### *Article 14*

#### ***Adoption and amendment of multiannual indicative programmes***

1. The Commission shall adopt multiannual indicative programmes referred to in Articles 12 and 13 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2). This procedure shall also apply to reviews referred to in paragraphs 3, 4 and 5 of this Article, which have the effect of significantly modifying the content of the multiannual indicative programme.
2. When adopting joint multi-annual programming documents referred to in Article 12, the Commission decision shall only apply to the Union's contribution to the joint multiannual programming document.
3. Multiannual indicative programmes for geographic programmes may be reviewed where necessary for effective implementation, in particular where there are substantive changes in the policy framework referred to in Article 7 or following a crisis or post-crisis situation.
4. Multiannual indicative programmes for thematic programmes may be reviewed where necessary for effective implementation, in particular where there are substantive changes in the policy framework referred to in Article 7.
5. On duly justified imperative grounds of urgency, such as crises or immediate threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may amend multiannual indicative programmes referred to in Articles

12 and 13 of this Regulation by implementing acts adopted in accordance with the urgency procedure referred to in Article 35(4).

#### *Article 15*

#### ***Emerging challenges and priorities cushion***

1. The amount referred to in Article 6(3) shall be used *inter alia*:
  - (a) to ensure an appropriate response of the Union in the event of unforeseen circumstances;
  - (b) to address new needs or emerging challenges, such as those at the Union's or its neighbours' borders linked to crisis and post-crisis situations or migratory pressure;
  - (c) to promote new Union led or international initiatives or priorities.
2. The use of these funds shall be decided in accordance with the procedures established in Articles 14 and 21.

## **Chapter II**

### **Specific provisions for the Neighbourhood**

#### *Article 16*

#### ***Programming documents and allocation criteria***

1. For partner countries listed in Annex I, priority areas for Union financing shall be mainly selected from those included in documents referred to in Article 12(3)(c), in accordance with the areas of cooperation of the Neighbourhood area set out in Annex II.
2. By way of derogation from Article 11(2), Union support under geographic programmes in the Neighbourhood area shall be differentiated in form and amounts, taking into account the following elements, reflecting the partner country's:
  - (a) needs, using indicators such as population and level of development;
  - (b) commitment to and progress in implementing jointly agreed political, economic and social reform objectives;
  - (c) commitment to and progress in building deep and sustainable democracy;
  - (d) partnership with the Union, including the level of ambition for that partnership;
  - (e) absorption capacity and potential impact of Union support under this Regulation.
3. The support referred to in paragraph 2 shall be reflected in the programming documents referred to in Article 12.

*Article 17*  
**Performance-based approach**

1. Indicatively 10 % of the financial envelope set out in Article 4(2)(a) to supplement the country financial allocations referred to in Article 12 shall be allocated to partner countries listed in Annex I in order to implement the performance-based approach. The performance-based allocations shall be decided on the basis of their progress towards democracy, human rights, rule of law, cooperation on migration, economic governance and reforms. The progress of partner countries shall be assessed annually.
2. The performance-based approach shall not apply to support to civil society, people-to-people contacts, including cooperation between local authorities, support for the improvement of human rights, or crisis-related support measures. In the event of serious or persistent degradation of democracy, human rights or rule of law, support to these actions may be increased.

*Article 18*  
**Cross-Border Cooperation**

1. Cross-border cooperation, as defined in Article 2(3), shall cover cooperation on adjacent land borders, transnational cooperation over larger transnational territories, maritime cooperation around sea-basins, as well as interregional cooperation.
2. The Neighbourhood area shall contribute to cross-border cooperation programmes referred to in paragraph 1 co-financed by the European Regional Development Fund in the framework of [ETC Regulation<sup>81</sup>]. Up to 4 % of the financial envelope for the Neighbourhood area shall be indicatively allocated to support those programmes.
3. Contributions to cross-border cooperation programmes shall be determined and used pursuant to Article 10(3) of [ETC Regulation].
4. The Union co-financing rate shall not be higher than 90 % of the eligible expenditure of a cross-border cooperation programme. For technical assistance the co-financing rate shall be 100 %.
5. Pre-financing for cross-border cooperation programmes shall be determined in the work programme in accordance with needs of the participating third countries and territories and may exceed the percentage referred to in Article 49 of [ETC Regulation].
6. A multiannual indicative strategy document for cross border cooperation, setting out the elements referred to in Article 12(2) of this Regulation, shall be adopted in accordance with Article 10(1) of [ETC Regulation].
7. Where cross-border cooperation programmes are discontinued in accordance with Article 12 of [ETC Regulation], support from the Neighbourhood area to the discontinued programme that remains available may be used to finance any other activity under the Neighbourhood area.

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<sup>81</sup> COM(2018) 374 final Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments.

## **Chapter III**

### **Action plans, measures and implementing methods**

#### *Article 19*

##### ***Action plans and measures***

1. The Commission shall adopt annual or multiannual action plans or measures. The measures may take the form of individual measures, special measures, support measures or exceptional assistance measures. Action plans and measures shall specify for each action the objectives pursued, the expected results and main activities, the methods of implementation, the budget and any associated support expenditures.
2. Action plans shall be based on programming documents, except for cases referred to in paragraphs 3 and 4.

When necessary, an action may be adopted as an individual measure before or after the adoption of action plans. Individual measures shall be based on programming documents, except for cases referred to in paragraph 3 and in other duly justified cases.

In the event of unforeseen needs or circumstances, and when funding is not possible from more appropriate sources, the Commission may adopt special measures not provided for in the programming documents.

3. Annual or multiannual action plans and individual measures may be used to implement rapid response actions referred to in Article 4(4)(b) and (c).
4. The Commission may adopt exceptional assistance measures for rapid response actions as referred to in Article 4(4)(a).

An exceptional assistance measure may have a duration of up to 18 months, which may be extended twice by a further period of up to six months, up to a total maximum duration of 30 months, in the event of objective and unforeseen obstacles to its implementation, provided that there is no increase in the financial amount of the measure.

In cases of protracted crisis and conflict, the Commission may adopt a second exceptional assistance measure of a duration of up to 18 months. In duly justified cases further measures may be adopted where the continuity of the Union's action is essential and cannot be ensured by other means.

#### *Article 20*

##### ***Support measures***

1. Union financing may cover support expenditure for the implementation of the Instrument and for the achievement of its objectives, including administrative support associated with the preparation, follow-up, monitoring, control, audit and evaluation activities necessary for such implementation, as well as expenditure at headquarters and Union delegations for the administrative support needed for the programme, and to manage operations financed under this Regulation, including



information and communication actions, and corporate information technology systems.

2. When support expenditure is not included in the action plans or measures referred to in Article 21, the Commission shall adopt, where applicable, support measures. Union financing under support measures may cover:
  - (a) studies, meetings, information, awareness-raising, training, preparation and exchange of lessons learnt and best practices, publication activities and any other administrative or technical assistance expenditure necessary for the programming and management of actions, including remunerated external experts;
  - (b) research and innovation activities and studies on relevant issues and the dissemination thereof;
  - (c) expenditures related to the provision of information and communication actions, including the development of communication strategies and corporate communication and visibility of the political priorities of the Union.

#### *Article 21*

#### *Adoption of action plans and measures*

1. Action plans and measures shall be adopted by means of implementing acts adopted in accordance with the examination procedure referred to in Article 35(2).
2. The procedure referred to in paragraph 1 shall not be required for:
  - (a) action plans, individual measures and support measures, for which the Union's funding does not exceed EUR 10 million;
  - (b) special measures as well as action plans and measures adopted in order to implement rapid response actions for which the Union's funding does not exceed EUR 20 million;
  - (c) technical amendments, provided such amendments do not substantially affect the objectives of the action plan or measure concerned, such as:
    - (i) change of method of implementation;
    - (ii) reassignments of funds between actions contained in an action plan;
    - (iii) increases or reductions of the budget of action plans and measures by not more than 20 % of the initial budget and not exceeding EUR 10 million;

In case of multiannual action plans and measures, the thresholds referred to in paragraph (2)(a), (b) and (c) (iii) shall be applicable on a yearly basis.

When adopted in accordance with this paragraph, action plans and measures, except exceptional assistance measures, and technical amendments shall be communicated to the European Parliament and to the Member States through the relevant committee referred to in Article 35 within one month of their adoption.

3. Before the adoption or extension of exceptional assistance measures not exceeding EUR 20 million, the Commission shall inform the Council of their nature and objectives and of the financial amounts envisaged. The Commission shall inform the Council before making significant substantive changes to exceptional assistance

measures already adopted. The Commission shall take account of the relevant policy approach of the Council for the planning and subsequent implementation of such measures, in the interests of consistency of the Union's external action.

The Commission shall keep the European Parliament duly informed, in a timely manner, about the planning and the implementation of exceptional assistance measures pursuant to this Article, including the financial amounts envisaged, and shall also inform the European Parliament when making substantial changes or extensions to that assistance.

4. In the event of duly justified imperative grounds of urgency, such as crises including natural or man-made disasters, immediate threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may adopt action plans and measures or amendments to existing action plans and measures, as immediately applicable implementing acts, in accordance with the procedure referred to in Article 35(4).
5. Appropriate environmental screening, including for climate change and biodiversity impacts, shall be undertaken at the level of actions, in accordance with the applicable legislative acts of the Union, including Directive 2011/92/EU<sup>82</sup> of the European Parliament and of the Council and Council Directive 85/337/EEC<sup>83</sup>, comprising, where applicable, an environmental impact assessment for environmentally sensitive actions, in particular for major new infrastructure.

Where relevant, strategic environmental assessments shall be used in the implementation of sectoral programmes. The involvement of interested stakeholders in environmental assessments and public access to the results of such assessments shall be ensured.

#### *Article 22*

#### ***Methods of cooperation***

1. Financing under this Instrument shall be implemented by the Commission, as provided for by the Financial Regulation, either directly by the Commission itself, by Union delegations and by executive agencies, or indirectly through any of the entities listed in Article 62 (1) c) of the Financial Regulation.
2. Financing under this Instrument may also be provided through contributions to international, regional or national funds, such as those established or managed by the EIB, by Member States, by partner countries and regions or by international organisations, or other donors.
3. The entities listed in Article 62(1)(c) of the Financial Regulation and in Article 29(1) of this Regulation shall annually fulfil their reporting obligations under Article 155 of the Financial Regulation. The reporting requirements for any of these entities are laid down in the framework partnership agreement, the contribution agreement, the agreement on budgetary guarantees or the financing agreement.

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<sup>82</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification) (OJ L 26 28.1.2012. p.1).

<sup>83</sup> Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 05.07.1985. p. 0040 – 0048).

4. Actions financed under the Instrument may be implemented by means of parallel or joint co-financing.
5. In the case of parallel co-financing, an action is split into a number of clearly identifiable components which are each financed by the different partners providing co-financing in such a way that the end-use of the financing can always be identified.
6. In the case of joint co-financing, the total cost of an action is shared between the partners providing the co-financing and the resources are pooled in such a way that it is no longer possible to identify the source of financing for any given activity undertaken as part of the action.
7. Cooperation between the Union and its partners may take the form, inter alia, of:
  - (a) triangular arrangements whereby the Union coordinates with third countries its assistance funding to a partner country or region;
  - (b) administrative cooperation measures such as twinning between public institutions, local authorities, national public bodies or private law entities entrusted with public service tasks of a Member State and those of a partner country or region, as well as cooperation measures involving public sector experts dispatched from the Member States and their regional and local authorities;
  - (c) contributions to the necessary costs of setting up and administering a public-private partnership;
  - (d) sector policy support programmes whereby the Union provides support to a partner country's sector programme
  - (e) contributions to the cost of the countries' participation in Union programmes and actions implemented by Union agencies and bodies, as well as bodies or persons entrusted with implementation of specific actions in the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union;
  - (f) interest rate subsidies.

#### *Article 23*

#### ***Forms of EU funding and methods of implementation***

1. The Union funding may be provided through the types of financing envisaged by the Financial Regulation and in particular:
  - (a) grants;
  - (b) procurement contracts for services, supplies or works;
  - (c) budget support;
  - (d) contributions to trust funds set up by the Commission, in accordance with Article 234 of the Financial Regulation;
  - (e) financial instruments;
  - (f) budgetary guarantees;
  - (g) blending;
  - (h) debt relief in the context of internationally agreed debt relief programme;

- (i) financial assistance;
  - (j) remunerated external experts.
2. When working with stakeholders of partner countries, the Commission shall take into account their specificities, including their needs and the relevant context, when defining the financing modalities, the type of contribution, the award modalities and the administrative provisions for the management of grants, with a view to reaching and best responding to the widest possible range of such stakeholders. Specific modalities shall be encouraged in accordance with the Financial Regulation, such as partnership agreements, authorisations of financial support to third parties, direct award or eligibility-restricted calls for proposals, or lump sums, unit costs and flat-rate financing as well as financing not linked to costs as envisaged in Article 125(1) of the Financial Regulation.
3. In addition of the cases referred to in Article 195 of the Financial Regulation, the direct award procedure may be used for;
- (a) low-value grants to human rights defenders to finance urgent protection actions, where appropriate without the need for co-financing;
  - (b) grants, where appropriate without the need for co-financing, to finance actions in the most difficult conditions where the publication of a call for proposals would be inappropriate including situations where there is a serious lack of fundamental freedoms, where human security is most at risk or where human rights organisations and defenders operate under the most difficult conditions. Such grants shall not exceed EUR 1 000 000 and shall have a duration of up to 18 months, which may be extended by a further 12 months in the event of objective and unforeseen obstacles to their implementation;
  - (c) grants to the Office of the UN High Commissioner for Human Rights as well as to Global Campus, the European Inter-University Centre for Human Rights and Democratisation, providing a European Master's Degree in Human Rights and Democratisation, and its associated network of universities delivering human rights postgraduate diplomas, including scholarships to students and human rights defenders from third countries.

Budget support as referred to in point (c) of paragraph 1, including through sector reform performance contracts, shall be based on country ownership, mutual accountability and shared commitments to universal values, democracy, human rights, the rule of law, and aims at strengthening partnerships between the Union and partner countries. It shall include reinforced policy dialogue, capacity development, and improved governance, complementing partners' efforts to collect more and spend better in order to support sustainable and inclusive economic growth and jobs and poverty eradication.

Any decision to provide budget support shall be based on budget support policies agreed by the Union, a clear set of eligibility criteria and a careful assessment of the risks and benefits.

4. Budget support shall be differentiated in such a way as to respond better to the political, economic and social context of the partner country, taking into account situations of fragility.

When providing budget support in accordance with Article 236 of the Financial Regulation, the Commission shall clearly define and monitor criteria for budget support conditionality, including progress in reforms and transparency, and shall support the development of parliamentary control, national audit capacities and increased transparency and public access to information.

5. Disbursement of the budget support shall be based on indicators demonstrating satisfactory progress being made towards achieving the objectives agreed with the partner country.
6. Financial instruments under this Regulation may take forms such as loans, guarantees, equity or quasi-equity, investments or participations, and risk-sharing instruments, whenever possible and in accordance with the principles laid down in Article 209(1) of the Financial Regulation under the lead of the EIB, a multilateral European finance institution, such as the European Bank for Reconstruction and Development, or a bilateral European finance institution, such as bilateral development banks, possibly pooled with additional other forms of financial support, both from Member States and third parties.

Contributions to Union financial instruments under this Regulation may be made by Member States as well as any entity referred to in Article 62(1)(c) of the Financial Regulation.

7. Those financial instruments may be grouped into facilities for implementation and reporting purposes
8. The Union's funding shall not generate or activate the collection of specific taxes, duties or charges.
9. Taxes, duties and charges imposed by partner countries may be eligible for financing under this Regulation.

#### *Article 24*

#### ***Eligible persons and entities***

1. Participation in procurement, grant and prize award procedures for actions financed under geographic programmes and under the Civil Society Organisations and Global Challenges programmes shall be open to international organisations and to all other legal entities who are nationals of and, in the case of legal persons, who are also effectively established in, the following countries or territories:
  - (a) Member States, beneficiaries of the Regulation (EU) .../...(IPA III), and contracting parties to the Agreement on the European Economic Area;
  - (b) Neighbourhood partner countries and the Russian Federation when the relevant procedure takes place in the context of the programmes referred to in Annex I in which it participates;
  - (c) developing countries and territories, as included in the list of Official Development Assistance recipients published by the Development Assistance Committee of the Organisation for Economic Cooperation and Development, which are not members of the G-20 group, and overseas countries and territories as defined in Council Decision .../... (EU);

- (d) developing countries, as included in the list of Official Development Assistance recipients, which are members of the G-20 group, and other countries and territories, when the relevant procedure takes place in the context of an action financed by the Union under this Regulation in which they participate;
  - (e) countries for which reciprocal access to external funding is established by the Commission; that access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from countries eligible under this Regulation; the Commission shall decide on the reciprocal access and on its duration after consultation of the recipient country or countries concerned;
  - (f) member countries of the Organisation for Economic Cooperation and Development, in the case of contracts implemented in a Least Developed Country or a Highly Indebted Poor Country, as included in the list of Official Development Assistance recipients.
2. Without prejudice to the limitations inherent to the nature and objectives of the action, participation in procurement, grant and prize award procedures for actions financed under the Human Rights and Democracy and Stability and Peace programmes as well as rapid response actions, shall be open without limitations.
  3. All supplies and materials financed under this Regulation may originate from any country.
  4. The rules laid down in this Article shall not apply to, and shall not create, nationality restrictions for natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor.
  5. For actions jointly co-financed by an entity, or implemented in direct or indirect management with entities as referred to point (c) (ii) to (viii) of Article 62(1) of the Financial Regulation, the eligibility rules of those entities shall also apply.
  6. Where donors provide financing to a trust fund established by the Commission or through external assigned revenues, the eligibility rules in the constitutive act of the trust fund or in the agreement with the donor in case of external assigned revenues shall apply.
  7. In the case of actions financed under this Regulation and by another Union Programme, eligible entities under any of those Programmes shall be considered eligible.
  8. In the case of multi-country actions legal entities who are nationals of and, in the case of legal entities who are also effectively established in, the countries and territories covered by the action may be considered eligible.
  9. The eligibility rules of this Article may be restricted with regard to the nationality, geographical location or nature of applicants, where such restrictions are required on account of the specific nature and the objectives of the action and where they are necessary for its effective implementation.
  10. Tenderers, applicants and candidates from non-eligible countries may be accepted as eligible in the case of urgency or the unavailability of services in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of an action impossible or exceedingly difficult.

11. In order to promote local capacities, markets and purchases, priority shall be given to local and regional contractors when the Financial Regulation provides for an award on the basis of a single tender. In all other cases, participation of local and regional contractors shall be promoted in accordance with the relevant provisions of that Regulation.
12. Under the Democracy and Human Rights programme, any entity not covered under the definition of legal entity in Article 2(6) shall be eligible when this is necessary to pursue the areas of intervention of this programme.

#### *Article 25*

#### ***Carry-overs, annual instalments, commitment appropriations, re-payments and revenue generated by financial instruments***

1. In addition to Article 12(2) of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be committed up to 31 December of the following financial year. The carried-over amount shall be used first in the following financial year.

The Commission shall inform the European Parliament and the Council of carried over commitment appropriations in line with Article 12(6) of the Financial Regulation.

2. In addition to the rules laid down in Article 15 of the Financial Regulation on making appropriations available again, commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non implementation of an action under this Regulation shall be made available again to the benefit of the budget line of origin.

References to Article 15 of the Financial Regulation in Article 12(1)(b) of Regulation laying down the multi annual financial framework shall be understood as including a reference to this paragraph for the purpose of this Regulation.

3. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments, in line with Article 112(2) of the Financial Regulation.

The third subparagraph of Article 114(2) of the Financial Regulation shall not apply to these multiannual actions. The Commission shall automatically de-commit any portion of a budgetary commitment for an action that by 31 December of the fifth year following that of the budgetary commitment has not been used for the purpose of pre-financing or making interim payments or for which no certified statement of expenditure or any payment request has been submitted.

Paragraph 2 of this Article shall also apply to annual instalments.

4. By way of derogation from Article 209(3) of the Financial Regulation repayments and revenues generated by a financial instrument shall be assigned to the budget line of origin as internal assigned revenue after deduction of management costs and fees. Every five years, the Commission shall examine the contribution made to the achievement of Union objectives, and the effectiveness, of existing financial instruments.

## **Chapter IV**

### **EFSD+, budgetary guarantees and financial assistance to third countries**

#### *Article 26*

#### ***Scope and financing***

1. The financial envelope referred to in Article (6)(2)(a) shall finance the European Fund for Sustainable Development Plus (EFSD+) and the External Action Guarantee.

The purpose of the EFSD+ as an integrated financial package supplying financial capacity drawing on the methods of implementation set up in Article 23(1)(a), (e), (f) and (g), shall be to support investments and increase access to financing, in order to foster sustainable and inclusive economic and social development and promote the socio-economic resilience in partner countries with a particular focus on the, eradication of poverty, sustainable and inclusive growth, the creation of decent jobs, economic opportunities, skills and entrepreneurship, socioeconomic sectors, micro, small and medium-sized enterprises as well as addressing specific socioeconomic root causes of irregular migration, in accordance with the relevant indicative programming documents. Special attention shall be given to countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries.

2. The External Action Guarantee shall support the EFSD+ operations covered by budgetary guarantees in accordance with Articles 27, 28 and 29 of this Regulation, macro-financial assistance and loans to third countries referred to in Article 10(2) of Regulation EINS.
3. Under the External Action Guarantee, the Union may guarantee operations, signed between 1 January 2021 and 31 December 2027, up to EUR 60 000 000 000.
4. The provisioning rate shall range between 9% and 50% depending on the type of operations.

The provisioning rate for the External Action Guarantee shall be 9% for the Union's macro-financial assistance and for budgetary guarantees covering sovereign risks associated with lending operations.

The provisioning rates shall be reviewed every three years from the date of application of this Regulation laid down in Article 40. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to supplement or amend these rates.

5. The External Action Guarantee shall be considered as a single guarantee in the common provisioning fund established by Article 212 of the Financial Regulation.
6. The EFSD+ and the External Action Guarantee may support financing and investment operations in partner countries in the geographical areas referred to in Article 4(2). The provisioning of the External Action Guarantee shall be financed from the budget of the relevant geographic programmes established by Article 6(2)(a) and shall be transferred into the common provisioning fund. The EFSD+ and the External Action Guarantee may also support operations in beneficiaries listed in Annex I of Regulation IPA III. The funding for these operations under the EFSD+ and for the provisioning of the External Action Guarantee shall be financed from the



Regulation IPA. The provisioning of the External Action Guarantee for loans to third countries referred to in Article 10 (2) of Regulation EINS shall be financed from Regulation EINS.

7. The provisioning referred to in Article 211(2) of the Financial Regulation shall be constituted on the basis of the Union's total outstanding liabilities arising from each operation, including operations signed before 2021 and guaranteed by the Union. The annual amount of provisioning required may be constituted during a period of up to seven years.
8. The balance of assets by 31 December 2020 in the EFSD Guarantee Fund and in the Guarantee fund for external actions established respectively by Regulation EU 2017/1601 of the European Parliament and the Council and Council Regulation (EC, Euratom) No 480/2009 shall be transferred into the common provisioning fund for the purpose of provisioning its respective operations under the same single guarantee provided for in paragraph 4 of this Article.

#### *Article 27*

##### ***Eligibility and selection of operations and counterparts***

1. The financing and investment operations eligible for support through the External Action Guarantee shall be consistent and aligned with Union policies, as well as with the partner countries' strategies and policies. They shall in particular support the objectives, general principles and policy framework of this Regulation and the relevant indicative programming documents, with due regard to the priority areas laid down in Annex V.
2. The External Action Guarantee shall support financing and investment operations compliant with the conditions set out in points (a) to (c) of Article 209(2) of the Financial Regulation and that:
  - (a) ensure complementarity with other initiatives;
  - (b) are economically and financially viable, with due regard to the possible support from, and co-financing by, private and public partners to the project, while taking into account the specific operating environment and capacities of countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries which may benefit from concessional terms;
  - (c) are technically viable and are sustainable from an environmental and social point of view.
3. The External Action Guarantee shall be used to cover the risks for the following instruments:
  - (a) loans, including local currency loans and macro-financial assistance loans;
  - (b) guarantees;
  - (c) counter-guarantees;
  - (d) capital market instruments;
  - (e) any other form of funding or credit enhancement, insurance, and equity or quasi-equity participations.

4. The eligible counterparts for the purposes of the External Action Guarantee shall be the ones identified in Article 208(4) of the Financial Regulation, including those from third countries contributing to the External Action Guarantee, subject to approval by the Commission in accordance with Article 28 of this Regulation. In addition, and by derogation to Article 62(2)(c) of the Financial Regulation, bodies governed by the private law of a Member State or a third country which has contributed to the External Action Guarantee in accordance with Article 28, and which provide adequate assurance of their financial capacity shall be eligible for the purpose of the Guarantee.

5. Eligible counterparts shall comply with the rules and conditions provided for in Article 62(2)(c) of the Financial Regulation. In the case of bodies governed by the private law of a Member State or a third country which have contributed to the External Action Guarantee in accordance with Article 28 of this Regulation, preference shall be given to those bodies that disclose information related to environment, social and corporate governance criteria.

The Commission shall ensure an effective, efficient and fair use of available resources among eligible counterparts, while promoting cooperation between them.

The Commission shall ensure fair treatment for all eligible counterparts and shall ensure that conflicts of interest are avoided throughout the implementation period of the EFSD+. In order to ensure complementarity, the Commission may request any relevant information from eligible counterparts about their non-EFSD+ operations.

6. The Commission shall select the eligible counterparts in accordance with Article 154 of the Financial Regulation, taking due account of:

- (a) the advice of the strategic and regional operation boards, in accordance with Annex VI;
- (b) the objectives of the investment window;
- (c) the experience and risk management capacity of the eligible counterpart;
- (d) the amount of own resources, as well as private sector co-financing, that the eligible counterpart is ready to mobilise for the investment window.

7. The Commission shall set up investment windows for regions, specific partner countries or both, for specific sectors, or for specific projects, specific categories of final beneficiaries or both, which are to be funded by this Regulation, to be covered by the External action Guarantee up to a fixed amount. The Commission shall inform the European Parliament and the Council on how the investment windows comply with this Article and their detailed funding priorities. All requests for financial support within investment windows shall be made to the Commission.

The choice of investment windows shall be duly justified by an analysis of the market failure or sub-optimal investment situations. That analysis shall be carried out by the Commission in cooperation with potentially eligible counterparts and stakeholders.

Eligible counterparts may provide the instruments referred to in paragraph 3 under an investment window or individual project administered by an eligible counterpart. The instruments may be provided for the benefit of partner countries, including countries experiencing fragility or conflict or countries facing challenges in reconstruction and post-conflict recovery, for the benefit of those partner countries' institutions,

including their public national and private local banks and finance institutions, as well as for the benefit of private sector entities of those partner countries.

8. The Commission shall assess the operations supported by the External Action Guarantee against the eligibility criteria set out in paragraphs 2 and 3, where possible drawing on the existing result measurement systems of eligible counterparts. The Commission shall publish the result of its assessment for each investment window on an annual basis.
9. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to supplement or amend the priority areas in Annex V and the governance of the EFSD+ in Annex VI.

#### *Article 28*

##### ***Contribution from other donors to the External Action Guarantee***

1. Member States, third countries and other third parties may contribute to the External Action Guarantee.

By derogation from the second sub-paragraph of Article 218(2) of the Financial Regulation, the contracting parties to the Agreement on the European Economic Area may contribute in the form of guarantees or cash.

Contribution from third countries other than the contracting parties to the Agreement on the European Economic Area and from other third parties shall be in the form of cash and subject to approval by the Commission.

The Commission shall inform the European Parliament and the Council without delay of the contributions confirmed.

At the request of the Member States, their contributions may be earmarked for the initiation of actions in specific regions, countries, sectors or existing investment windows.

2. Contributions in the form of a guarantee shall not exceed 50% of the amount referred to in Article 26(2) of this Regulation.

The contributions made by the Member States and the contracting parties to the Agreement on the European Economic Area in the form of a guarantee may only be called for payments of guarantee calls after the funding from the general budget of the Union increased by any other cash contributions has been used on payments of guarantee calls.

Any contribution may be used to cover guarantee calls regardless of earmarking.

A contribution agreement shall be concluded between the Commission, on behalf of the Union, and the contributor, and shall contain, in particular, provisions concerning the payment conditions.

#### *Article 29*

##### ***Implementation of External Action Guarantee agreements***

1. The Commission, on behalf of the Union, shall conclude External Action Guarantee agreements with the eligible counterparts selected pursuant to Article 27.

Agreements may be concluded with a consortium of two or more eligible counterparts.

2. One or more External Action Guarantee agreements shall be concluded for each investment window between the Commission and the eligible counterpart or eligible counterparts selected. In addition, in order to address specific needs, the External Action Guarantee may be granted for individual financing or investment operations.

All External Action Guarantee agreements shall, upon request, be made available to the European Parliament and to the Council, taking into account the protection of confidential and commercially sensitive information.

3. External Action Guarantee agreements shall contain, in particular:
  - (a) detailed rules on the coverage, requirements, eligibility, eligible counterparts, and procedures;
  - (b) detailed rules on the provision of the External Action Guarantee, including its arrangements on the coverage and its defined coverage of portfolios and of projects of specific types of instruments, as well as a risk analysis of projects and project portfolios, including at sectoral, regional and national levels;
  - (c) a mention of the objectives and purpose of this Regulation, a needs assessment and an indication of the expected results, taking into account the promotion of corporate social responsibility and responsible business conduct;
  - (d) the remuneration of the guarantee, which is to reflect the risk level, and the possibility for the remuneration to be partly subsidised in order to give concessional terms in duly justified cases;
  - (e) requirements for the use of the External Action Guarantee, including payment conditions, such as specific time frames, interest to be paid on due amounts, expenses and recovery costs and possibly necessary liquidity arrangements;
  - (f) claims procedures, including, but not limited to, triggering events and waiting periods, and procedures regarding the recovery of claims;
  - (g) monitoring, reporting and evaluation obligations;
  - (h) clear and accessible complaints procedures for third parties that could be affected by the implementation of projects supported by the External Action Guarantee.
4. The eligible counterpart shall approve financing and investment operations following its own rules and procedures and in compliance with the terms of the External Action Guarantee agreement.
5. The External Action Guarantee may cover:
  - (a) for debt instruments, the principal and all interests and amounts due to the selected eligible counterpart, but not received by it in accordance with the terms of the financing operations after an event of default has occurred;
  - (a) for equity investments, the amounts invested and their associated financing costs;
  - (b) for other financing and investment operations referred to in Article 27(2), the amounts used and their associated funding costs;

- (c) all relevant expenses and recovery costs related to an event of default, unless deducted from recovery proceeds.
6. For the purposes of the Commission's accounting, its reporting of the risks covered by the External Action Guarantee and in line with Article 209(4) of the Financial Regulation, eligible counterparts with which a guarantee agreement has been concluded shall provide the Commission and the Court of Auditors annually with the financial reports on financing and investment operations covered by this Regulation, audited by an independent external auditor, containing, inter alia, information on:
- (a) the risk assessment of financing and investment operations of the eligible counterparts, including information on Union liabilities measured in compliance with the accounting rules referred to in Article 80 of the Financial Regulation and IPSAS;
  - (b) the outstanding financial obligation for the Union arising from the EFSD+ operations provided to the eligible counterparts and their financing and investment operations, broken down by individual operations.
7. The eligible counterparts shall, upon request, provide the Commission with any additional information necessary to fulfil the Commission's obligations in relation to this Regulation.
8. The Commission shall report on financial instruments, budgetary guarantees, financial assistance in accordance with Article 241 and 250 of the Financial Regulation. To this purpose, the eligible counterparts shall provide annually the information necessary to allow the Commission to comply with the reporting obligations.

#### *Article 30*

#### ***Capital participation in a development bank***

The envelope for geographic programmes, referred to in Article 6(2)(a), may be used to contribute to the capital endowment of European and other development finance institutions.

## **Chapter V**

### **Monitoring, reporting and evaluation**

#### *Article 31*

#### ***Monitoring and reporting***

1. Indicators to report on progress under this Regulation towards the achievement of the specific objectives set out in Article 3 are set in Annex VII, in line with the Sustainable Development Goals indicators. The values of the indicators on 1 January 2021 shall be used as a basis for assessing the extent to which the objectives have been achieved.
2. The Commission shall regularly monitor its actions and review progress made towards delivering expected results, covering outputs and outcomes.

Progress with respect to expected results should be monitored on the basis of clear, transparent and, where appropriate, measurable indicators. Indicators shall be kept at a limited number to facilitate timely reporting.

3. Joint results frameworks included within joint programming documents that fulfil the criteria set out in Article 12(4) shall provide the basis for the joint monitoring by the Union and the Member States of the implementation of their collective support to a partner country.

The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

4. The Commission shall examine the progress made in implementing this Regulation. From 2022 onwards, the Commission shall submit to the European Parliament and to the Council an annual report on the achievement of the objectives of this Regulation by means of indicators, measuring the results delivered and the efficiency of the Regulation. That report shall also be submitted to the European Economic and Social Committee and to the Committee of the Regions.
5. The annual report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of the relevant partners, and the implementation of budgetary commitments and of payment appropriations broken down by country, region and cooperation sector. It shall assess the results of the Union funding using, as far as possible, specific and measurable indicators of its role in meeting the objectives of this Regulation. In the case of development cooperation, the report shall also assess, where possible and relevant, the adherence to development effectiveness principles, including for innovative financial instruments.
6. The annual report prepared in 2021 shall contain consolidated information from annual reports concerning the period from 2014 to 2020 on all funding from the Regulations referred to in Article 40(2), including external assigned revenues and contributions to trust funds, and offering a breakdown of spending by country, use of financial instruments, commitments and payments. The report shall reflect the main lessons learnt and the follow-up to the recommendations of the external evaluative exercises carried out in previous years.
7. An annual estimate of the overall spending related to climate action and biodiversity shall be made on the basis of the indicative programming documents adopted. The funding allocated under this Regulation shall be subject to an annual tracking system based on the methodology of the Organisation for Economic Cooperation and Development ('Rio markers'), without excluding the use of more precise methodologies where these are available, integrated into the existing methodology for performance management of Union programmes, to quantify the expenditure related to climate action and biodiversity at the level of the action plans and measures referred to in Article 19 and recorded within evaluations and the annual report.
8. The Commission shall make available information on development co-operation through recognised international standards.
9. To ensure effective assessment of progress of this Regulation towards the achievement of its objectives, the Commission shall be empowered to adopt

delegated acts in accordance with Article 34 to amend Annex VII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

### *Article 32* **Evaluation**

1. An interim evaluation of this Regulation shall be performed once there is sufficient information available about its implementation, but no later than four years after the start of the implementation of the instrument.

Where appropriate evaluations shall make use of the good practise principles of the Development Assistance Committee of the Organisation for Economic Cooperation and Development, seeking to ascertain whether the objectives have been met and to formulate recommendations with a view to improving future actions.

2. At the end of the implementation of the Regulation, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Regulation shall be carried out by the Commission. This evaluation shall look at the Union contribution to the achievement of the objectives of this Regulation, taking into account indicators measuring the results delivered and any findings and conclusions concerning the impact of this Regulation.

The final evaluation report shall also address efficiency, the added value, the scope for simplification, internal and external coherence, and the continued relevance of the objectives of this Regulation.

The final evaluation report shall be undertaken for the specific purpose of improving the implementation of the Union funding. It shall inform decisions on the renewal, modification or suspension of the types of actions implemented under the Regulation.

The final evaluation report shall also contain consolidated information from relevant annual reports on all funding governed by this Regulation, including external assigned revenues and contributions to trust funds offering a breakdown of spending by beneficiary country, use of financial instruments, commitments and payments

The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, to the Council and to the Member States through the relevant committee referred to in Article 35. Specific evaluations may be discussed in that committee at the request of Member States. The results shall feed into programme design and resource allocation.

The Commission shall, to an appropriate extent, associate all relevant stakeholders in the evaluation process of the Union's funding provided under this Regulation, and may, where appropriate, seek to undertake joint evaluations with the Member States and development partners with close involvement of the partner countries.

3. In line with the specific reporting provisions in the Financial Regulation, by 31 December 2025 and every three years thereafter, the Commission shall evaluate the use and the functioning of the External Action Guarantee. The Commission shall submit its evaluation report to the European Parliament and to the Council. That evaluation report shall be accompanied by an opinion of the Court of Auditors.

## **TITLE III**

### **FINAL PROVISIONS**

#### *Article 33*

##### ***Participation by a country or territory not covered by this Regulation***

1. In duly justified cases and where the action to be implemented is of a global, trans-regional or regional nature, the Commission may decide, within the relevant multiannual indicative programmes or within the relevant action plans or measures to extend the scope of actions to countries and territories not covered by this Regulation pursuant to Article 4 in order to ensure the coherence and effectiveness of Union financing or to foster regional or trans-regional cooperation.
2. The Commission may include a specific financial allocation to assist partner countries and regions in strengthening their cooperation with neighbouring Union outermost regions and with overseas countries and territories covered by Council Decision *OCT Decision*. To this end, this Regulation, may contribute, where appropriate and on the basis of reciprocity and proportionality as regards the level of funding from the *OCT Decision* and/or *the ETC Regulation*, to actions implemented by a partner country or region or any other entity under this Regulation, by a country, territory or any other entity under the *OCT Decision* or by a Union outermost region in the frame of joint operational programmes or to interregional cooperation programmes or measures established and implemented under *the ETC Regulation*.

#### *Article 34*

##### ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4(6), Article 26(3), Article 27(9) and Article 31(9) shall be conferred on the Commission for the period of validity of this Regulation.
3. The delegation of power referred to in Article 4(6), Article 26(3), Article 27(9) and Article 31(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 4(6), Article 26(3), Article 27(9) and Article 31(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification



of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 35*  
**Committee**

1. The Commission shall be assisted by the Neighbourhood, Development and International Cooperation committee. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so requests.
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.
5. The adopted decision shall remain in force for the duration of the adopted or modified document, action programme or measure.
6. An observer from the European Investment Bank shall take part in the Committee's proceedings with regard to questions concerning the European Investment Bank.

*Article 36*  
**Information, communication and publicity**

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding in particular when promoting the actions and their results by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to this Regulation, and its actions and results. Financial resources allocated to this Regulation shall also contribute to the corporate communication of the political priorities of the Union, as far as those priorities are directly related to the objectives referred to in Article 3.

*Article 37*  
**Derogation from visibility requirements**

Security issues or local political sensitivities may make it preferable or necessary to limit communication and visibility activities in certain countries or areas or during certain periods. In such cases, the target audience and the visibility tools, products and channels to be used in promoting a given action shall be determined on a case-by-case basis, in consultation and

agreement with the Union. Where rapid intervention is required in response to a sudden crisis, it is not necessary to produce a full communication and visibility plan immediately. In such situations, however, the Union's support shall nevertheless be appropriately indicated from the start.

*Article 38*  
**EEAS clause**

This Regulation shall apply in accordance with Decision 2010/427/EU.

*Article 39*  
**Repeal and transitional provisions**

1. Decision No 466/2014/EU, Regulation (EC, Euratom) No 480/2009 and Regulation (EU) 2017/1601 are repealed with effect from 1 January 2021.
2. The financial envelope for this Regulation may also cover technical and administrative assistance expenditures necessary to ensure the transition between this Regulation and the measures adopted under its predecessors: Regulation (EU) No 233/2014; Regulation (EU) No 232/2014; Regulation (EU) No 230/2014; Regulation (EU) No 235/2014; Regulation (EU) No 234/2014, Regulation (Euratom) No 237/2014, Regulation (EU) No 236/2014, Decision No 466/2014/EU, Regulation (EC, Euratom ) No 480/2009 and Regulation (EU) 2017/1601.
3. The financial envelope for this regulation may cover expenditures related to the preparation of any successor to this Regulation.
4. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenditures provided for in Article 20(1), to enable the management of actions not completed by 31 December 2027.

*Article 40*  
**Entry into force**

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

It shall apply from 1 January 2021.

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (*programme cluster*)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on appropriations of an administrative nature*
  - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Neighbourhood, Development and International Cooperation Instrument

#### 1.2. Policy area(s) concerned (*Programme cluster*)

External Action

Neighbourhood, Development and International Cooperation Instrument

#### 1.3. The proposal/initiative relates to:

a new action

a new action following a pilot project/preparatory action<sup>84</sup>

the extension of an existing action

a merger or redirection of one or more actions towards another/a new action

#### 1.4. Grounds for the proposal/initiative

##### 1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

In the long term, the general objective of the proposed Instrument is to uphold and promote EU values and interests worldwide.

In accordance with Articles 3(5), 8 and 21 of the Treaty on European Union, the specific objectives include the following:

(a) To support and foster dialogue and cooperation with third countries and regions in the Neighbourhood, in Sub-Saharan Africa, in Asia and the Pacific, and in Americas and the Caribbean;

(b) At global level, to promote human rights and democracy, support civil society organisations, further stability and peace and address other global challenges;

(c) To respond rapidly to situations of crisis, instability and conflict; strengthening resilience and linking humanitarian and development action; and foreign policy needs and priorities.

At least 90% of the expenditure under the Instrument should fulfil the criteria for Official Development Assistance established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development.

##### 1.4.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

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<sup>84</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

The past years have shown regional conflicts, terrorism, migratory pressure, unsustainable use of resources and increased protectionism. Individually, Member States would be unable to respond effectively to these global dynamics, but the EU is in a unique position to address the challenges, to develop opportunities for the rapidly changing world and deliver external assistance due to its core competences stemming from the Treaties, its values and credibility as a peace actor and defender of democracy and human rights and leader in combatting climate change and protecting the environment, its political influence and supranational nature, the scope, coherence and mix of instruments and the wide range of tools at its disposal to implement on the ground.

The EU has the opportunity to establish a dialogue as a fully-fledged peer with other regional organisations, for example with the African Union.

In some areas where Member States are not active to act, the EU remains the main, and sometimes the only, actor to intervene. This is the case, for instance, in sensitive contexts such as the defence of human rights and electoral observation missions.

The EU can provide added value based on the volume of resources channelled through its instruments, its relatively flexible modes of management and the predictability of resources over the period of the Multi-annual Financial Framework.

The EU has significant expertise in certain fields originating from the history of Europe itself (for instance, regional integration and democratic transition) and from successful policies (such as expertise in food security gained through the common agricultural policy and the common fisheries policy, and in the technical standards of the Single Market). It has a recognised international reputation as a peace and conflict prevention actor and as an active supporter of free elections and human rights.

The EU has a global presence through its delegations, which ensures a vast network of information on developments affecting countries worldwide. The EU is also a party to most multilateral processes aiming at addressing global challenges. This allows the EU to be constantly aware of new needs and problems and, therefore, to reallocate resources accordingly. Complementarities between EU action and the actions carried out by the Member States are increasing. This enhances political dialogue and cooperation, which is increasingly channelled through joint programming with Member States.

The EU is also able to complement Member States activities in dealing with potentially dangerous situations or in the event of particularly costly interventions.

Expected generated Union added value (ex-post)

The expected added value generated by the Neighbourhood, Development and International Cooperation Instrument should follow on from the findings of the mid-term review of the external financing instruments. During the mid-term review, the analysis of the impact-level indicators included in the current regulations (e.g. the Sustainable Development Goals) showed the positive trends emerging. Such trends are expected to continue post-2020 with international targets set for 2030

### 1.4.3. *Lessons learned from similar experiences in the past*

The mid-term review report<sup>85</sup> adopted by the Commission on 10 of the external financing instruments<sup>86</sup>, the *ex post* evaluation reports on macro-financial assistance and the mid-term review on the European Investment Bank external lending mandate<sup>87</sup> all concluded that the external financing instruments were, overall, fit for purpose and that positive trends were emerging in relation to the achievement of objectives. The reports show that more resources are needed for external financing instruments because they have been stretched to their financial limit.

The instruments set the scope, objectives and procedures to allow implementation of the policies. The mid-term review report has shown that their enabling nature allows them to cover most needs and goals of EU external action. They would benefit from better reflecting a number of developments such as: the new policy framework including the universal coverage of the 2030 Agenda, the migration/refugee crisis, and the external projection of internal policies. In addition, more consideration needs to be given to the links between development and security and the overall level of ambition for peace and security in external action.

Introducing the principle of graduation<sup>88</sup> in certain instruments (i.e. the Development Cooperation Instrument) left a gap in the EU's ability to cooperate with upper middle income countries through bilateral cooperation. As some situations in those countries may call for such support (e.g. post-crisis situations), it was found that the EU should find innovative ways of cooperation, as set out in the new European Consensus on Development<sup>89</sup> with more advanced developing countries and strategic partners, in line with the universal coverage of the 2030 Agenda.

Promoting fundamental values and human rights is at the core of the instruments. However, there were difficulties in promoting and taking this agenda forward in some countries, and the space for civil society organisations was found to be shrinking in many countries. This makes it challenging to work on these issues and highlights the tension between promoting the human rights agenda versus partners' own priority interests.

In the current context of multiple crises and conflicts, the EU needs to be able to react swiftly to changing events. However, for certain instruments, responsiveness was hindered by a lack of financial flexibility. When new priorities emerged such as the migration/refugee crisis, problems were encountered trying to reallocate funds within the instruments under the budget as large quantities had been tied up in long-term programmes not allowing enough unallocated margin. As stated in the mid-term review report, flexibility needs to be enhanced

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<sup>85</sup> The mid-term review report COM(2017) 720 final, was based on ten staff working documents, one per instrument (see list below), which in turn were based on ten independent evaluations. The mid-term report, the staff working documents and the independent evaluations can be found at here: [https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union\\_en](https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en)

<sup>86</sup> The 10 instruments were the: Development Cooperation Instrument (DCI); European Development Fund (EDF); European Neighbourhood Instrument (ENI); Instrument for Pre-Accession (IPA II); Instrument contributing to Stability and Peace (IcSP); European Instrument for Democracy and Human Rights (EIDHR); Partnership Instrument (PI); Instrument for Nuclear Safety Cooperation (INSC); Greenland Decision (GD); and Common Implementing Regulation (CIR).

<sup>87</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016DC0584>

<sup>88</sup> In current EU cooperation, 'graduation' means that upper middle income countries are no longer eligible for EU bilateral cooperation.

<sup>89</sup> Points 91-93.

Consistency is needed between an instrument's component parts, between different instruments and with donors. Overall, the mid-term review report notes mixed findings on coherence. In terms of coherence within the instruments, the findings were satisfactory. There was a certain level of consistency between the instruments but the multiplicity of programmes sometimes led to overlapping actions, in particular complex cooperation with more advanced developing countries. In addition, the interplay between geographic and thematic approaches sometimes resulted in inconsistent responses at country level. Feedback from EU delegations showed that they found it difficult to manage and take advantage of complementarities and to create synergies between the instruments. Overall, it was considered that the EU was missing opportunities for coordinated strategies for a given country/region.

In terms of consistency with Member States, the review found that there was potential for joint programming to be further strengthened. However, this would require more commitment in certain cases both from partner country governments and from Member States.

The mid-term review report points to positive trends emerging in relation to achieving results. However, difficulties in measuring achievements were noted. There was often limited information on monitoring systems referred to in the instruments. There was a lack of data (including baselines) to measure if the instruments were on track to meet some of their objectives (particularly the high-level ones), and an understanding that many external factors (e.g. partner country policies and other donors) influence achievement of the objectives.

In terms of mainstreaming EU priorities, significant progress was noted across existing instruments in the areas of climate change<sup>90</sup>, while more needs to be done to address the scale of other environmental challenges such as biodiversity loss and depletion of natural resources. Mainstreaming human rights, including gender equality and women's empowerment, was considered in most cases to be 'work in progress', with partner governments sometimes showing a lack of interest in, or resistance to, these areas.

While overall organisational performance was found to be efficient, some actors considered that the implementation of some instruments was administratively burdensome. At times the Commission was perceived to be more focused on process rather than on policy objectives and results.

#### *1.4.4. Compatibility and possible synergy with other appropriate instruments*

When implementing this Regulation, consistency with other areas of external action and with other relevant EU policies will be ensured, together with policy coherence for development<sup>91</sup>. As incorporated in the 2030 Agenda, this means taking into account the impact of all policies on sustainable development at all levels — nationally, within the EU, in other countries and at global level.

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<sup>90</sup> For example, 11th EDF climate contributions increased from 3.3% in 2014 to 23.3% in 2016 and DCI climate change contributions increased from 17.7% in 2014 to 24.9% in 2016. Source: Indicator 12b, EU international cooperation and development results framework with input from the OECD DAC Creditor Reporting System.

<sup>91</sup> [https://ec.europa.eu/europeaid/policies/policy-coherence-development\\_en](https://ec.europa.eu/europeaid/policies/policy-coherence-development_en)

Moreover, synergies with actions under other EU programmes should be sought, in order to maximise the impact of combined interventions, such programmes including the European Structural and Investment Funds and Horizon Europe.

Actions funded under this proposal should be consistent with those carried out under the Instrument for Pre-Accession III, the Decision on Overseas Countries and Territories, the common foreign and security policy and the newly proposed European Peace Facility which is outside the EU budget. Humanitarian aid as set out in Article 214 of the Treaty on the Functioning of the European Union will not be funded under this proposal as they will continue to be funded through the Humanitarian Aid Regulation.

Funding from the Regulation should also be used to finance actions related to learning mobility to, from or between third countries not associated to the Erasmus Programme, as well as cooperation and policy dialogue with those countries, in a way that is consistent with the Erasmus Regulation.



## 1.5. Duration and financial impact

### limited duration

- in effect from [DD/MM]YYYY to [DD/MM]YYYY
- Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

### unlimited duration

- Implementation with a start-up period from 2021 onwards

## 1.6. Management mode(s) planned<sup>92</sup>

### Direct management by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies

### Shared management with the Member States

### Indirect management by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;
- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 70 and 71 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a member state that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the Treaty on European Union, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

### Comments

External expenditure requires the ability to use all foreseen management modes as relevant and decided during the implementation.

<sup>92</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

The Commission's monitoring and evaluation systems are increasingly focused on results. They involve internal staff as well as implementing partners and external expertise.

Task Managers in Delegations and Headquarters continuously monitor the implementation of projects and programmes, using the information provided by implementing partners as part of their regular reporting and including wherever possible through field visits. Internal monitoring provides valuable information on progress; it helps managers to identify actual and potential bottlenecks, and to take corrective action.

In addition, external independent experts are contracted to assess the performance of EU external actions through three different systems. These assessments contribute to accountability, and to the improvement of ongoing interventions; they also draw lessons from past experience to inform future policies and actions. Such systems generally use the internationally recognised Development Assistance Committee of the Organisation for Economic Cooperation and Development's evaluation criteria including (potential) impact. For instance, for development cooperation, at the project level, the Headquarters-managed Results Oriented Monitoring (ROM) system provides a brief, focused snapshot of the quality of a sample of interventions. Using a very structured, standardised methodology, independent ROM experts assess the performance of the project across the Development Assistance Committee of the Organisation for Economic Cooperation and Development's evaluation criteria and give recommendations on how to improve future implementation.

Project-level evaluations, which are mainly managed by the EU delegation in charge of the project, deliver a more detailed, in-depth analysis and help project managers to improve ongoing interventions and prepare future ones. External, independent experts with thematic and geographic expertise are hired to conduct the analysis and gather feedback and evidence from all stakeholders, in particular the final beneficiaries. The Commission also conducts strategic evaluations of its policies, from programming and strategy to the implementation of interventions in a specific sector (such as health or education), in a country or region, or of a specific Instrument. These evaluations are an important input for the formulation of policies and the design of instruments and projects. These evaluations are all published on the Commission's website and a summary of the findings is included in the Annual Report to the Council and the European Parliament.

### **2.2. Management and control system(s)**

#### **2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed***

Management modes

Regarding the management modes, there are no fundamental changes are foreseen and the experience acquired by the Commission services and implementing actors under the predecessor programmes will contribute to better results in the future.

The actions to be financed under this Regulation will be implemented under direct management by the Commission from headquarters and/or through the Union delegations and under indirect management by any of the entities listed in article 62(1) c) of the new Financial Regulation in order to better achieve the objectives of the Regulation.

Concerning indirect management, as stated in Article 154 of the new Financial Regulation, such entities must ensure a level of protection of the EU's financial interests equivalent to the one under direct management. An ex ante pillar assessment of the entities' systems and procedures will be carried out, in accordance with the principle of proportionality and with due consideration for the nature of the action and the financial risks involved. Where the implementation requires so or there have been reservations expressed in Annual Activities Reports, action plans with specific mitigation measures will be defined and implemented. Besides, appropriate supervisory measures imposed by the Commission may accompany the implementation.

The Instrument envisages that indirect management may also be entrusted to partner countries or the bodies they designate. Such partner country indirect management may take the form of various degrees of delegation: partial delegation whereby the Commission retains ex ante control over the partner country's decisions and executes payments on behalf of the partner country which by virtue of article 154(6)(b) of the new Financial Regulation does not require an ex ante pillar assessment. Or full delegation whereby, after an ex ante pillar assessment, the partner country can implement the action using its own assessed systems and procedures, with no ex ante control from the Commission on the partner country's implementation of the action.

Budget support will also be used.

Innovative financial instruments including in partnership with the European Investment Bank (EIB), Member States' financial institutions and other international financial institutions will be used for blending activities. The use of trust funds is also envisaged.

#### Internal Control architecture

The internal control / management process is designed to provide reasonable assurance regarding the achievement of objectives in the effectiveness and efficiency of the operations, the reliability of the financial reporting and compliance with the relevant legislative and procedural framework.

#### Effectiveness and efficiency

To ensure the effectiveness and efficiency of the operations (and to mitigate the high level of risk in the external assistance environment), in addition to all the elements of the Commission wide Strategic Policy and Planning process, internal audit environment and other requirements of the Commission's Internal Control Framework, the implementing services will continue to have a tailored aid management framework in operation under all the instruments which will include:

- A devolved management of the majority of external assistance by Union delegations in the field.
- Clear and formalised lines of financial accountability (from the Delegated Authorising officer (Director General)) by means of a sub-delegation from the Sub-delegated Authorising Officer (Director) at headquarters to the Head of Delegation;

- Regular reporting from Union delegations to headquarters (External Assistance Management Reports) including an annual Statement of Assurance by the Head of Delegation;
- Provision of a substantial programme of training for staff both at headquarters and in delegations,
- Significant headquarters/delegation support and guidance (including via internet);
- Regular supervision visits to delegations every 3 to 6 years;
- A project and programme cycle management methodology including: quality support tools for the design of the intervention, the delivery method, financing mechanism, management system, assessment and selection of any implementing partners, etc.; programme and project management, monitoring and reporting tools for effective implementation including regular external on-the-spot monitoring of projects; and significant evaluation and audit components. Simplifications will be sought by extending the use of simplified cost options and cross-reliance on audit work of partner organisations. There will be a continuation of a risk-differentiated controls approach in accordance with the underlying risks.

#### Financial Reporting and Accounting

The implementing services will continue to pursue the highest standards of accounting and financial reporting using the Commission's accruals based accounting system (ABAC) as well as external aid specific tools such as the Common Relex Information System (CRIS) and its successor (OPSYS).

In relation to compliance with the relevant legislative and procedural framework, compliance control methods are set out in section 2.3 (measures to prevent fraud and irregularities).

#### 2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

The operational environment of cooperation under this instrument is characterised by the risks of not achieving the instrument's objectives, suboptimal financial management and/or of not complying with the applicable rules (legality and regularity errors) related to:

- economic/political instability and/or natural disaster that may lead to difficulties and delays in the design and implementation of interventions, particularly in fragile states;
- lack of institutional and administrative capacity in partner countries that may lead to difficulties and delays in the design and implementation of interventions;
- geographically dispersed projects and programmes (covering approximately many states/territories/regions) may pose logistical/resource challenges to monitoring - particularly any 'on-the-spot' follow-up of activities;
- diversity of potential partners / beneficiaries with their diverse internal control structures and capacities can fragment and therefore reduce the effectiveness and efficiency of the Commission's available resources to support and monitor implementation;

– poor quality and quantity of available data on the outcomes and impact of external assistance implementation in partner countries may hinder the Commission's ability to report on and be accountable for results.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The internal control/management cost represent approximately 4 % of the estimated annual average of € 12.78 billion planned for the overall (operational + administrative) commitments on the expenditure portfolio financed by the General Budget of the EU and the European Development Fund for the period 2021-2027. This cost of control calculation refers only to the costs of the Commission, excluding Member States or entrusted entities. Entrusted entities can withhold up to 7 % for the administration of funds, which could partially be used for control purposes.

These management costs take into account all staff at headquarters and in delegations, infrastructure, travel, training, monitoring, evaluation and audit contracts (including those launched by beneficiaries).

The management / operational activities ratio could be reduced over time under the improved and simplified arrangements of the new instrument, building on changes to be introduced by the new Financial Regulation. The key benefits of these management costs are realised in terms of meeting policy objectives, efficient and effective use of resources, and the exercise of robust cost-effective preventative measures and other checks to ensure the legal and regular use of funds.

While improvements in the nature and targeting of management activities and compliance checks in relation to the portfolio will continue to be pursued, these costs are globally necessary to effectively and efficiently achieve the objectives of the instruments at a minimal risk of non compliance (below 2% residual error). They are significantly less than risks involved in removing or scaling back internal controls in this high risk area.

Expected level of risk of non-compliance with applicable rules

The compliance objective for the Instrument is to maintain the historic level of risk of non-compliance (error rate) which is an overall residual 'net' level of error (on a multi-annual basis after all planned controls and corrections have been executed on closed contracts) of less than 2%. This has traditionally implied an estimated error range of 2-5% in terms of an annual randomised sample of transactions undertaken by the European Court of Auditors for the purposes of the annual Statement of Assurance (DAS). The Commission considers this to be the lowest risk of non-compliance achievable in relation to its high-risk environment and taking into account the administrative burden and necessary cost effectiveness of compliance controls. Where weaknesses are identified, targeted corrective measures will be implemented in the light of ensuring minimum error rates.

## 2.3. Measures to prevent fraud and irregularities

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

Given the high risk environment, the systems need to anticipate a significant occurrence of potential compliance errors (irregularities) in transactions and build in a high level of prevention, detection and correction controls as early as possible in

the payment process. This means in practice that compliance controls will place most reliance on significant ex-ante checks on a multi-annual basis by both external auditors and Commission staff in the field before final project payments (while still executing some ex-post audits), going well beyond the financial safeguards required by the Financial Regulation. Compliance framework is made up inter alia of the following significant components:

#### Preventative measures

- Compulsory core training covering fraud issues for aid management staff and auditors;
- Provision of guidance (including via internet) including existing manual of procedures such as the DEVCO Companion and the Financial Management Toolkit (for implementing partners);
- Ex-ante assessment to ensure that appropriate anti-fraud measures to prevent and detect fraud in the management of Union funds are in place in the authorities managing the relevant funds under joint and decentralised management);
- Ex-ante screening of the anti-fraud mechanisms available in the partner country as part of the assessment of the eligibility criterion of public finance management for receiving budget support (i.e. active commitment to fight fraud and corruption, adequate inspection authorities, sufficient judicial capacity and efficient response and sanction mechanisms);

#### Detective and corrective measures

- Ex-ante transaction checks performed by Commission staff;
- Audits and verifications (both mandatory and risk based) including the European Court of Auditors;
- Retrospective checks (on a risk basis) and recoveries;
- Suspension of EU funding where there is a serious fraud case, including large scale corruption, until the authorities have taken appropriate action with a view to correcting and preventing such fraud in the future;
- EDES (Early Detection Exclusion System);
- Suspension/termination of contract;
- Exclusion procedure

Anti-fraud strategies of the services concerned, which are regularly revised, will be adapted as necessary once the Commission's new version of its anti-fraud strategy (CAFS) will have been published in order to ensure inter alia that;

- The systems used for spending EU funds in third countries enable relevant data to be retrieved with a view to feeding this data into fraud risk management (e.g. double funding);
- Where necessary, networking groups and adequate IT tools dedicated to analysing fraud cases related to the external aid sector could be set up.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

| Heading of multiannual financial framework | Budget line  | Type of expenditure           | Contribution                      |  |                      |  |
|--|--|-------------------------------|-----------------------------------|--|----------------------|--|
|  | Heading VI. Neighbourhood & the World  | Diff./Non-diff. <sup>93</sup> | from EFTA countries <sup>94</sup> | from candidate countries <sup>95</sup> | from third countries | within the meaning of Article [21(2)(b)] of the Financial Regulation |
| VI   | 15 01 01 Support expenditure for the Neighbourhood, Development and International Cooperation Instrument | Non-diff.                     | NO                                | NO                                     | NO                   | NO   |
| VI   | 15 02 01 Geographic cooperation with third countries and regions   | Diff.                         | YES                               | YES                                    | YES                  | YES  |
| VI   | 15 02 02 Thematic interventions  | Diff.                         | NO                                | NO                                     | NO                   | NO   |
| VI   | 15 02 03 Rapid response actions  | Diff.                         | NO                                | NO                                     | NO                   | NO   |
| VI   | 15 02 04 Emerging challenges and priorities cushion  | Diff.                         | NO                                | NO                                     | NO                   | NO   |

<sup>93</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>94</sup> EFTA: European Free Trade Association.

<sup>95</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

| Heading VI. Neighbourhood & the World  |                        | <VI> |  |            |            |            |            |            |            |            |            |            |
|--|------------------------|------|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Heading of multiannual financial framework   |                        |      |  | 2021       | 2022       | 2023       | 2024       | 2025       | 2026       | 2027       | Post 2027  | TOTAL      |
| Operational appropriations (split according to the budget lines listed under 3.1) <sup>96</sup>      | Commitments            | (1)  |  | 10,735.497 | 11,013.405 | 11,408.197 | 11,938.063 | 12,630.804 | 13,527.578 | 14,619.798 |            | 85,873.342 |
|  | Payments               | (2)  |  | 1,460.701  | 3,419.496  | 5,288.668  | 7,159.359  | 8,903.375  | 10,178.560 | 11,279.598 |            | 38,183.585 |
| Appropriations of an administrative nature financed from the envelope of the programme <sup>97</sup> | Commitments = Payments | (3)  |  | 447.475    | 456.425    | 465.553    | 474.864    | 484.362    | 494.049    | 503.930    |            | 3,326.658  |
|  | Commitments            | =1+3 |  | 11,182.972 | 11,469.830 | 11,873.750 | 12,412.927 | 13,115.166 | 14,021.627 | 15,123.728 |            | 89,200.000 |
| <b>TOTAL appropriations for the envelope of the programme</b>  | Commitments            |      |  | 1,908.176  | 3,875.921  | 5,754.221  | 7,634.223  | 9,387.737  | 10,672.609 | 11,783.528 | 38,183.585 | 89,200.000 |
|  | Payments               | =2+3 |  |            |            |            |            |            |            |            |            |            |

<sup>96</sup>

These operational appropriations, together with those of IPA III and EINS, will also cover the External Action Guarantee, which will support EFSD+ operations, macro-financial assistance and loans to third countries on the basis of Council Decision 77/270/Euratom, for a proposed amount of up to EUR 60 billion, out of which EUR 14 billion are envisaged to cover macro-financial assistance loans.

<sup>97</sup>

Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.



|   |            |                                     |  |  |  |  |  |  |  |  |  |
|---|------------|-------------------------------------|--|--|--|--|--|--|--|--|--|
| <b>Heading of multiannual financial framework</b> | <b>VII</b> | <b>‘Administrative expenditure’</b> |  |  |  |  |  |  |  |  |  |
|---|------------|-------------------------------------|--|--|--|--|--|--|--|--|--|

EUR million (to three decimal places)

|  | 2021           | 2022           | 2023           | 2024           | 2025           | 2026           | 2027           | Post 2027 | TOTAL            |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------|------------------|
| Human resources  | 266.098        | 266.098        | 266.098        | 266.098        | 266.098        | 266.098        | 266.098        |           | 1.862.688        |
| Other administrative expenditure   | 34.958         | 34.958         | 34.958         | 34.958         | 34.958         | 34.958         | 34.958         |           | 244.703          |
| <b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> |           | <b>2.107.391</b> |

EUR million (to three decimal places)

|  | 2021       | 2022       | 2023       | 2024       | 2025       | 2026       | 2027       | Post 2027  | TOTAL      |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b> | 11.484.028 | 11.770.886 | 12.174.806 | 12.713.983 | 13.416.222 | 14.322.683 | 15.424.784 |            | 91.307.391 |
|  | 2.209.232  | 4.176.977  | 6.055.277  | 7.935.279  | 9.688.793  | 10.973.665 | 12.084.584 | 38.183.584 | 91.307.391 |

### 3.2.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

| Years | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | TOTAL |
|-------|------|------|------|------|------|------|------|-------|
|-------|------|------|------|------|------|------|------|-------|

| HEADING 7 of the multiannual financial framework                 |                |                |                |                |                |                |                |                  |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|
| Human resources  | 266.098        | 266.098        | 266.098        | 266.098        | 266.098        | 266.098        | 266.098        | 1,862.688        |
| Other administrative expenditure                                 | 34.958         | 34.958         | 34.958         | 34.958         | 34.958         | 34.958         | 34.958         | 244.703          |
| <b>Subtotal HEADING 7 of the multiannual financial framework</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>301.056</b> | <b>2,107.391</b> |

| Outside HEADING 7 <sup>98</sup> of the multiannual financial framework   |                |                |                |                |                |                |                |                  |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|
| Human resources  | 353.505        | 353.505        | 353.505        | 353.505        | 353.505        | 353.505        | 353.505        | 2,474.538        |
| Other expenditure of an administrative nature <sup>99</sup>              | 93.970         | 102.919        | 112.048        | 121.359        | 130.856        | 140.543        | 150.424        | 852.120          |
| <b>Subtotal outside HEADING 7 of the multiannual financial framework</b> | <b>447.475</b> | <b>456.425</b> | <b>465.553</b> | <b>474.864</b> | <b>484.362</b> | <b>494.049</b> | <b>503.930</b> | <b>3,326.658</b> |

|              |                |                |                |                |                |                |                |                  |
|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|
| <b>TOTAL</b> | <b>748.531</b> | <b>757.481</b> | <b>766.609</b> | <b>775.920</b> | <b>785.417</b> | <b>795.105</b> | <b>804.986</b> | <b>5,434.049</b> |
|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

#### 3.2.2.1. Estimated requirements of human resources<sup>100</sup>

- The proposal/initiative does not require the use of human resources.

<sup>98</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

<sup>99</sup> At this stage no grant is foreseen for EACEA.

<sup>100</sup> Deployment of the resources in EU Delegations will be made in accordance with the provisions of the Service-Level Agreement between the Commission and the EEAS on 20 December 2010.

- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

| Years   | 2021              | 2022         | 2023         | 2024         | 2025         | 2026         | 2027         |
|---|-------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| <b>• Establishment plan posts (officials and temporary staff)</b>                                     |                   |              |              |              |              |              |              |
| Headquarters and Commission's Representation Offices  | 1,019             | 1,019        | 1,019        | 1,019        | 1,019        | 1,019        | 1,019        |
| Delegations   | 536               | 536          | 536          | 536          | 536          | 536          | 536          |
| Research  |                   |              |              |              |              |              |              |
| <b>• External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED <sup>101</sup></b> |                   |              |              |              |              |              |              |
| Heading 7   |                   |              |              |              |              |              |              |
| Financed from HEADING 7 of the multiannual financial framework  | - at Headquarters | 107          | 107          | 107          | 107          | 107          | 107          |
|   | - in Delegations  | 39           | 39           | 39           | 39           | 39           | 39           |
| Financed from the envelope of the programme <sup>102</sup>  | - at Headquarters | 515          | 515          | 515          | 515          | 515          | 515          |
|   | - in Delegations  | 3,237        | 3,237        | 3,237        | 3,237        | 3,237        | 3,237        |
| Research  |                   |              |              |              |              |              |              |
| Other (specify)   |                   |              |              |              |              |              |              |
| <b>TOTAL</b>  | <b>5,453</b>      | <b>5,453</b> | <b>5,453</b> | <b>5,453</b> | <b>5,453</b> | <b>5,453</b> | <b>5,453</b> |

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

|                               |  |
|-------------------------------|--|
| Officials and temporary staff | The tasks will be the same as currently (policy, programming, finance and contracts, other horizontal tasks) |
| External staff                | The tasks will be the same as currently (policy, programming, finance and contracts, other horizontal tasks) |

<sup>101</sup> AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

<sup>102</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

### 3.2.3. Third-party contributions

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

| Years                            | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | TOTAL |
|----------------------------------|------|------|------|------|------|------|------|-------|
| Specify the co-financing body    |      |      |      |      |      |      |      |       |
| TOTAL appropriations co-financed |      |      |      |      |      |      |      |       |

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

| Budget revenue line: | Impact of the proposal/initiative <sup>103</sup> |      |      |      |      |      |      |
|----------------------|--|------|------|------|------|------|------|
|                      | 2021   | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
| Article .....        |  |      |      |      |      |      |      |

<sup>103</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.