



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

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

**laying down general provisions establishing a European Neighbourhood and  
Partnership Instrument**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

### **Introduction**

The proposed new architecture of the financial instruments, which should operate in the new financial perspective 2007-2013, and the reasons leading to this proposal were explained by the Commission to the Council and Parliament in the communications on the financial perspectives<sup>1</sup>. The introductory communication presenting the Regulation on the “European Neighbourhood and Partnership Instrument” (ENPI), like those of three other external relations instruments, provides additional and more detailed information on the rationale behind the main features of the instrument. In view of that, this explanatory memorandum focuses primarily on explaining the main articles of the Regulation.

The ENPI will replace existing geographical and thematic programmes covering the countries concerned. External aspects of internal policies, currently covered by a specific instrument, will be either mainstreamed in country and multicountry programmes, or, where appropriate, dealt with through a specific thematic programme.

A specific and innovative feature of the ENPI is its crossborder cooperation component. Under this component, the ENPI will finance “joint programmes” bringing together regions of Members States and partner countries sharing a common border. This will bring a radical simplification in procedures and substantial gains in efficiency. It will use an approach largely modelled on “Structural Funds” principles such as multiannual programming, partnership and cofinancing, adapted to take into account the specificities of external relations. The crossborder cooperation component of the ENPI will be cofinanced by the European Regional Development Fund (ERDF). Title III includes a set of provisions specifically designed for this component only. These provisions are consistent with similar provisions established for crossborder cooperation under the relevant Structural Funds regulations.

### **Comments on specific provisions**

#### ***Title I - Objectives and principles***

##### ***Article 1- Subject matter and scope***

Article 1 states the scope of the assistance making reference to the importance to develop an area of prosperity and close cooperation involving the European Union and the neighbouring countries, as recognised in the Draft Constitution.

The partner countries covered by the instrument are listed in Annex I. The list includes the neighbouring countries which do not currently have an accession perspective and to which the European Neighbourhood Policy (ENP) is addressed. Originally limited to the four Western NIS and ten Mediterranean Countries, this list has been extended, following the Brussels European Council of 17-18 June 2004, to include the three countries of the Southern Caucasus (Armenia, Azerbaijan and Georgia).

The ENPI covers Russia because the European Union and Russia have decided to develop their strategic partnership through the creation of ‘four common spaces’, as agreed at the St. Petersburg Summit of May 2003, rather than in the framework established by the

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<sup>1</sup> COM(2004) 101 of 10 February 2004 and COM(2004)487 of 14 July 2004.

European Neighbourhood Policy. The reference to *partnership* in the name of the instrument denotes this specificity. Assistance to neighbouring countries with accession prospects, such as Turkey or the countries of the Western Balkans, is covered under a separate Pre-Accession Instrument.

Developing an area of good “neighbourliness” requires resources to promote crossborder cooperation between partner countries and the Member States so as to promote integrated regional development among border regions and avoid the creation of new dividing lines. In order to be able to support crossborder cooperation efficiently and effectively and to finance joint projects, Article 1 provides, for the first time in an assistance regulation, that assistance can be used for the common benefit of Member States and partner countries. This brings a radical simplification to the current situation where crossborder cooperation at the external EU border is hampered by interfaces between internal and external funding instruments operating through different rules.

Lastly, Article 1 refers to fundamental values of the Union to which the Union’s neighbours have pledged commitment in their bilateral agreements with the EU and in a number of multilateral conventions and other instruments. As the extent to which neighbouring countries implement these commitments varies, it is important that the Union’s external action seeks to promote greater compliance through dialogue and cooperation. In extreme cases the Union can resort to total or partial suspension of assistance under the procedure outlined in Article 29.

#### *Article 2 - Scope of assistance*

Article 2 sets out the main aims of the assistance and makes a link between these aims and the existing agreements with neighbouring countries. This reflects the policy-driven character of the instrument and the importance attached to support the implementation of these agreements. However this link is not intended to exclude the possibility of providing assistance to countries such as Belarus or Libya, where, even in the absence of a contractual framework, assistance may be useful to pursue EU policy objectives.

Article 2 also provides, mainly for explanatory reasons, a list of objectives that can be pursued under this Regulation. This list, which is non-exhaustive, includes objectives specific to the European Neighbourhood Policy alongside other, more conventional, development objectives. This reflects the reality of neighbouring countries, many of which are developing countries. The choice of objectives to be pursued in a given country will be made when establishing country strategies and multiannual programmes.

#### *Article 3 - Policy framework*

Article 3 underlines the character of the ENPI as a policy-driven instrument. The overall policy framework for programming assistance should be laid down, taking into account the existing agreements, in the Commission communications and Council conclusions setting out the overall strategy of the Union vis-à-vis neighbouring countries. This was most recently done in the Commission communication of May 2004<sup>2</sup>, which was followed by Council conclusions in June 2004<sup>3</sup> and which may also be followed by a resolution of the European Parliament. Where they exist, the European Neighbourhood Policy (ENP) action plans,

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<sup>2</sup> The “European Neighbourhood Policy Strategy Paper”, COM(2004) 373 of 12 May 2004.

<sup>3</sup> General Affairs Council of 14 June 2004.

elaborated with the involvement of the Council and approved by the joint Association/Partnership and Cooperation Councils established in the bilateral agreements between the EU and the partner country will provide the key document from which assistance priorities will be drawn. These action plans cover a set of priorities whose fulfilment will bring partner countries closer to the European Union. In the case of Russia, priorities will be defined in the light of the road-maps on the four common spaces<sup>4</sup> approved by the Partnership and Cooperation Council.

In the absence of agreements and/or ENP action plans, assistance may still be provided, in particular for crossborder cooperation and whenever relevant to pursue EU policy objectives set out in the relevant Commission communications.

#### *Article 4 - Complementarity, partnership and cofinancing*

Article 4 lays down the following general principles for the implementation of this Regulation, namely that:

- assistance shall complement national measures to promote synergy and enhance impact;
- assistance shall be established in partnership between the Commission and the beneficiaries, and programming of assistance should be carried out involving, as appropriate, central, regional and local authorities, civil society, economic and social partners;
- assistance shall be cofinanced in order to promote ownership and maximise its leverage effect.

These principles are also applied in the context of the EU cohesion policy and reflect the dual nature of the instrument (external policy and economic and social cohesion) when it comes to financing crossborder and transregional cooperation between partner countries and Member States.

#### *Article 5 - Consistency, complementarity and coordination*

Article 5 provides for the consistency of assistance with Community policies and with the agreements to which the Union and the partner countries are parties. It also underlines the need for coordination between the Community, the Member States and with other donors, in accordance with Article 180 of the EC Treaty and as repeatedly stated in Commission communications and Council conclusions.

### ***Title II - Programming and allocation of funds***

#### *Article 6 - Type of programmes*

Article 6 describes the type of programmes through which assistance will be provided under this Regulation, namely country/multicountry programmes, thematic programmes and crossborder cooperation programmes.

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<sup>4</sup> These are: Common economic space (including and with a specific reference to environment and energy), a common space of freedom, security and justice, a space of cooperation in the field of external security, as well as a space of research and education, including cultural aspects.

Country and multicountry programmes cover the assistance provided under this instrument to a single country (national programme) or a group of countries (regional or subregional programmes). They normally include multiple priorities.

Thematic programmes are normally used to address in a visible and recognizable way global challenges of particular importance or, when this is considered appropriate, the external projection of internal policies. This is particularly important since the simplification of the financial instruments operating in the area of external relations means that thematic instruments such as LIFE third countries or TEMPUS will cease to exist under a separate legal basis. Thematic programmes will, in most of the cases, address all the partner countries.

The eligible border regions of the EU Member States will be covered by the crossborder cooperation programmes set up under this Regulation. It will also be possible to associate Member States in thematic and/or multicountry programmes through transregional cooperation. On that basis, a single financial instrument, the ENPI, will be able to finance joint projects involving beneficiaries from partner countries and Member States.

#### *Article 7 - Programming and allocation of funds*

Drawing on the policy framework described in Article 3, strategy papers containing multiannual indicative programmes will establish the priorities for assistance and determine multiannual financial allocations to programmes. They will be adopted by the Commission after the opinion of the committee under a management procedure. Financial allocations for country and multicountry programmes will reflect not only the characteristics and the management capacity of the countries concerned but also the level of ambition of the partnership of a given country with the European Union.

The strategy paper(s) for crossborder cooperation are mainly aimed at establishing the list of “joint” crossborder programmes, their geographical coverage and their allocations. They will be drafted taking into account the need to fully respect the programme-based, medium-term and bottom-up approach leading to the “joint programmes” referred to under Title III. The European Regional Development Fund will contribute to crossborder cooperation programmes under the provisions of this Regulation.

### ***Title III - Crossborder cooperation***

#### *Article 8 - Geographical eligibility*

Article 8 establishes the criteria determining the territorial units of Member States and partner countries that will be covered by crossborder cooperation programmes. This includes all NUTS-III level regions along land borders and sea crossings of significant importance and all NUTS-II maritime regions facing a common sea basin. Adjoining regions can also be associated in cooperation.

#### *Article 9 - Programming*

Article 9 includes specific provisions for establishing joint programmes bringing together eligible regions of Member States and partner countries. These programmes should normally be bilateral across land borders or sea crossings of significant importance and multilateral for maritime regions. A specific provision (paragraph 3) has been included to allow the

possibility for countries not covered by the Regulation, and in particular Turkey, to participate in multilateral maritime programmes.

Joint programmes will be adopted by the Commission. Following the adoption of these programmes the Member States and partner countries concerned will select the projects that will receive Community assistance.

Paragraph 7 provides for a safeguard clause which allows, in exceptional circumstances, Member States' border regions to receive assistance even if a joint programme cannot be established. This provision offers a safety net in the event that a serious crisis in relations between the European Union and a partner country makes it impossible to establish a joint programme.

#### *Article 10 - Management*

Article 10 provides for crossborder programmes to be managed jointly by the relevant Member States and partner countries through a joint managing authority operating through shared management and normally located in a Member State. By allowing implementation tasks to be delegated to the beneficiary Member State, this management method is compatible with the programme-based, multiannual, bottom-up approach which characterises crossborder cooperation programmes.

The Member State hosting the joint managing authority will be responsible to the Commission for the regularity of the operations financed under the programme, as is the case under Structural Funds. This provision takes account of the fact that Member States have more experience than partner countries in managing EU funds and that their procurement and financial control procedures are aligned with EU legislation.

However, it remains possible to locate the joint managing authority in partner countries following a process leading to a Commission decision that confirms the ability of the joint managing authority located in the partner country to manage Community funds in a fully decentralised way.

#### *Article 11 - Implementing rules*

Article 11 gives the Commission the authority to adopt implementing rules for this component. These rules will be adopted by the Commission after the opinion of the committee under a management procedure.

### ***Title III - Implementation***

#### *Article 12 - Adoption of action programmes*

Article 12 provides for the Commission's financing decisions to take the form of annual action programmes for countries or regions. This reflects the new principles introduced in the latest Commission regulations<sup>5</sup>. As decisions taken by the Commission in line with the multiannual programming documents approved by the Member States, these action programmes have not been made subject to the committee procedure. The Commission will

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<sup>5</sup> As in the MEDA and Tacis Regulations.

send the action programmes to the Member States for their information within one month of adopting its decision. The action programmes will lead to the signing of financing agreements with the partner countries and, where appropriate, regions, notably in the framework of geographical programmes. The Commission is empowered to adapt action programmes when necessary. Exceptionally, Article 12 provides for the adoption of measures not provided for in an action programme under the same rules and procedures as apply to action programmes. This provision may prove useful where the Commission needs to provide financing quickly even though the action programme has yet to be completely finalised.

*Article 13 - Adoption of special measures not provided for in the strategy papers or multiannual indicative programmes*

Article 13 provides for the adoption, in the event of unforeseen needs or circumstances, of special measures not provided for in the strategy papers or multiannual indicative programmes. This provision increases the Community's capacity to respond and introduces the flexibility necessary for the effective implementation of the Community's external assistance, especially in emergencies. Because these decisions are taken by the Commission outside the scope of multiannual programmes approved by the Member States, decisions in excess of EUR 15 million have been made subject to the committee procedure. Accordingly, the special measures not provided for in strategy papers or multiannual indicative programmes are adopted by the Commission under the procedure provided for in Article 3 of Decision 1999/468/EC, i.e. after consulting an advisory committee composed of the representatives of the Member States and chaired by the representative of the Commission (the committee being set up by Article 26 of the Regulation). The committee delivers an opinion on the special measures, and the Commission takes the utmost account of the opinion delivered by the committee and informs it of the manner in which the opinion has been taken into account. The Commission may adapt the special measures by the same procedure; the committee's opinion is not, however, necessary in the event of the minor amendments listed in Article 13(4).

*Article 14 - Eligibility.*

Article 14 lists the entities, bodies and institutions eligible under the Regulation. In line with current practice, it provides for broad-based eligibility. Institutions and agencies of the European Union are also eligible. As regards eligibility for Community grants, Article 14 must be read in the light of Article 21, which sets out the rules for participation in public procurement and grant procedures.

*Article 15 - Types of measures, Article 16 - Support measures*

On the basis of current practice, Article 15 provides a non-exhaustive list of the sort of measures that may be financed under the Regulation.

Article 16 allows the Community to finance all support measures necessary for the Regulation's implementation. Where support measures are not financed directly under multiannual programmes and action programmes, Article 16(2) provides for them to be adopted in the same way as special measures not provided for in strategy papers and multiannual indicative programmes (see Article 13).

### *Article 17 - Cofinancing, Article 18 – Management procedures*

In line with current practice and the donors' desire to promote better coordination of cooperation measures, Article 17 confirms that the measures financed may be cofinanced (in parallel or jointly). Paragraph 3 stipulates that the Commission may, in that event, receive and manage funds from the Member States (and in particular their public and parastatal agencies), any other donor country and international and regional organisations. This provision puts the Commission on an equal footing with other donors.

Article 18 allows the Commission to manage measures under this Regulation using management methods provided for in the Financial Regulation. In accordance with Article 54(2) of the Financial Regulation, it establishes the criteria for delegating budget implementation tasks to national bodies in Member States. It also establishes the terms on which beneficiary countries operating under decentralised management may use their own procurement procedures.

### *Article 19 - Budget commitments*

Article 19 stipulates that budget commitments are made on the basis of decisions taken by the Commission under joint crossborder cooperation programmes (Article 9), action programmes (Article 12), special measures not provided for in strategy papers and multiannual indicative programmes (Article 13) and support measures (Article 16). It allows (paragraph 2) budget commitments to be split into annual instalments, spread over a number of years, in accordance with Article 76 of the Financial Regulation, which permits this if it is provided for in the basic act. This provision is particularly useful for the multiannual crossborder cooperation programmes.

The possibility of using split commitments (paragraph 2) is intended for crossborder cooperation programmes. This is essential in order to establish a clear and pre-determined financial framework to be established for the whole 2007-13 period and create the conditions for the effective implementation of a multiannual, programme-based approach. At this stage there are no plans to use split commitments for country, multicountry or thematic programmes.

### *Article 20 - Protection of the Community's financial interests*

Article 20 stipulates the measures intended to protect the Community's financial interests, and in particular to enable it to perform the necessary checks on the activities implemented.

### *Article 21 - Participation in tenders and contracts*

Article 21 sets out the rules for participation in public procurement and grant procedures for the purposes of implementing this Regulation. At this stage the planned provisions comply with the proposal for a Regulation of the European Parliament and of the Council on access to Community external assistance<sup>6</sup>, which is intended to amend the basic regulations for the main Community aid instruments with a view to further untying aid. Note that Article 21 allows natural and legal persons of third countries which open their own public procurement and grant procedures to EU Member States to take part in procurement and grant procedures.

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<sup>6</sup> COM(2004) 313 of 26 April 2004.

Article 21 could be amended in the light of the conclusions of that Regulation's examination by the Council and the European Parliament.

*Article 22 - Prefinancing, Article 23 - Funds made available to the European Investment Bank or other financial intermediaries*

Article 22 states that the interest generated by prefinancing is to be deducted from the final payment.

Article 23 specifies the type of arrangements the Commission is to adopt, on a case-by-case basis, when it decides to make funds available to the European Investment Bank or other financial intermediaries.

*Article 24 - Evaluation*

Article 24 binds the Commission to regularly evaluate the results of geographical and thematic policies and programmes and of sectoral policies and the effectiveness of programming.

#### ***Title IV - Final Provisions***

*Article 25 - Annual report*

In line with the decisions implemented since 2001 with a view to simplifying and rationalising the number of reports sent to the Council and the European Parliament, Article 26 maintains the status quo and provides for the Commission to submit annual reports to the Council and the European Parliament. The report will cover all the assistance granted under the various external relations instruments. It will be drawn up in the light of experience built up since 2001, and in particular the comments made each year by the Council and the European Parliament on the form and substance of the report.

*Article 26 - Committee*

Article 26 establishes the committee of Member States' representatives. See the explanations to Articles 7, 12 and 13 for details of the committee's prerogatives.

*Article 27 - Participation of a third country not eligible under this Regulation*

In order to increase the efficiency of Community assistance, and to avoid splitting certain programmes between several instruments, Article 27 extends eligibility under this Regulation to encompass the overseas countries and territories, countries eligible for the Pre-Accession Instrument and countries eligible for the financing instrument for development and economic cooperation. This provision will be applied where the project or programme adopted is of a global, regional or crossborder nature.

*Article 28 - Suspension of assistance*

Article 28 lays down the procedure applicable in the event of breaches of the principles referred to in Title I. It applies where there is no partnership and cooperation agreement with a partner country or where such an agreement does not provide for the suspension of aid.

*Article 29 - Financial reference amount*

Article 29 lays down the financial reference amount for the implementation of the Regulation.

*Article 30 - Review*

Article 30 allows the Regulation to be revised on the basis of a proposal from the Commission.

*Article 31 - Repeal of previous regulations*

Article 31 repeals the Tacis, MEDA and other regulations as necessary.

*Article 32 - Entry into force*

This Regulation is planned to enter into force twenty days after its publication in the Official Journal, but it will only apply from 1 January 2007. The reason for this is that the repealed regulations are still needed until the end of the current financial perspective, but the new Regulation can, in the meantime, already provide a legal basis for the drafting and adoption of the implementing rules, which should be done as soon as possible.

Proposal for a

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

**laying down general provisions establishing a European Neighbourhood and  
Partnership Instrument**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179 and 181a thereof,

Having regard to the proposal from the Commission,<sup>7</sup>

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) A new framework for planning and delivering assistance is proposed in order to make the Community's external assistance more effective. Council Regulation (EC) No [...] establishes an instrument for pre-accession (IPA) for Community assistance to candidate and potential candidate countries.<sup>8</sup> Regulation (EC) No [...] of the Council and of the European Parliament establishes a financing instrument for development cooperation and development cooperation.<sup>9</sup> This Regulation is the third general instrument providing direct support for the European Union's external policies.
- (2) The European Council, meeting in Copenhagen on 12 and 13 December 2002, confirmed that enlargement of the European Union presents an important opportunity to take forward relations with neighbouring countries based on shared political and economic values, and that the Union remains determined to avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union.
- (3) The European Council, meeting in Brussels on 17 and 18 June 2004, reiterated the importance it attached to strengthening cooperation with these neighbours, on the basis of partnership and joint ownership and building on shared values of democracy and respect for human rights.
- (4) The privileged relationship between the European Union and its neighbours will build on commitments to common values, including democracy, the rule of law, good

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<sup>7</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ C [...], [...], p. [...].

<sup>9</sup> OJ C [...], [...], p. [...].

governance and respect for human rights, and to the principles of market economy, free trade, sustainable development and poverty reduction.

- (5) In Eastern Europe and the Southern Caucasus, the Partnership and Cooperation Agreements provide the basis for contractual relations. In the Mediterranean, the Euro-Mediterranean Partnership (the “Barcelona Process”) provides a regional framework for cooperation which is complemented by a network of Association Agreements.
- (6) Under the European Neighbourhood Policy, a set of priorities are defined together by the European Union and the partner countries, to be incorporated in a series of jointly agreed Action Plans, covering a number of key areas for specific action, including political dialogue and reform, trade and economic reform, equitable socio-economic development, justice and home affairs, energy, transport, information society, environment, research and innovation, and people-to-people contacts. Progress towards meeting these priorities will contribute to realising the full potential of the Partnership and Cooperation Agreements and the Association Agreements.
- (7) In order to support the partner countries’ commitment to common values and principles and their efforts in the implementation of the action plans, the Community must be in a position to provide assistance to those countries and to support various forms of cooperation among them and between them and the Member States with the aim of developing a zone of shared stability, security and prosperity involving a significant degree of economic cooperation and political integration.
- (8) It is important that support to be provided to neighbouring developing countries within the framework established by the European Neighbourhood Policy is coherent with the objectives and principles of the Community development policy, as outlined in the Joint Statement on the European Community Development Policy made on 10 November 2000 by the Council and the Commission.
- (9) The European Union and Russia have decided to develop their specific strategic partnership through the creation of four common spaces, and Community assistance will be used to support the development of this partnership and to promote crossborder cooperation at the border between Russia and its European Union neighbours.
- (10) For Mediterranean partners assistance and cooperation should take place within the framework of the Euro-Mediterranean Partnership established by the Barcelona Declaration of 28 November 1995 and take into account the agreement reached in that context on establishing a free-trade area for goods and beginning a process of asymmetric liberalisation.
- (11) It is important to foster cooperation both at the European Union external border and among partner countries, especially those among them that are geographically close to each other.
- (12) In order to avoid the creation of new dividing lines, it is particularly important to remove obstacles to effective crossborder cooperation along the external borders of the European Union. Crossborder cooperation should contribute to integrated and sustainable regional development between neighbouring border regions and harmonious territorial integration across the Community and with neighbouring

countries. This aim can best be achieved by combining external policy objectives with environmentally sustainable economic and social cohesion.

- (13) In order to assist neighbouring partner countries in achieving their objectives, and to promote cooperation between them and Member States, it is desirable to establish a single policy-driven instrument which will replace a number of existing instruments, ensuring coherence and simplifying assistance programming and management.
- (14) This instrument will also support crossborder cooperation between partner countries and the Member States bringing substantial efficiency gains operating through a single management mechanism and with a single set of procedures. It will build on the experience acquired from the implementation of the Neighbourhood Programmes in the period 2004-2006 and operate on the basis of principles such as multiannual programming, partnership, and cofinancing.
- (15) This Regulation establishes for the period 2007-2013 a financial framework which constitutes the prime reference amount for the budgetary authority according to point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedures.
- (16) The measures necessary for the implementation of this Regulation are measures to be adopted in accordance with Council Decision 1999/468 of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.<sup>10</sup>
- (17) The use of the management procedure is applicable when defining the implementing rules which will govern the implementation of crossborder cooperation and when adopting the documents setting out the strategic considerations and overall objectives guiding the provision of Community assistance to a country, a region or a specific thematic issue. Ad hoc measures not based on strategic documents and whose value exceeds an established threshold can be taken by the Commission in justified cases, using a consultative procedure.
- (18) The objectives of the action proposed are to promote enhanced cooperation and progressive economic integration between the European Union and neighbouring countries. Since these objectives cannot be sufficiently achieved by the Member States and can, by reason of the scale of the action, be better achieved by the Community, the Community may take measures according to the principle of subsidiarity established in Article 5 (2) of the EC Treaty. In accordance with the principle of proportionality laid down in that Article, this Regulation does not go beyond what is necessary to attain these objectives.
- (19) This Regulation makes it necessary to repeal Regulation (EEC) No 1762/92 of 29 June 1992 (MEDA) on the implementation of the Protocols on financial and technical cooperation concluded by the Community with Mediterranean non-member countries,<sup>11</sup> Regulation (EC) No 1488/96 of 23 July 1996 (MEDA) on financial and technical measures to accompany the reform of economic and social structures in the

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<sup>10</sup> OJ L 184, 17.7.1999, p. 23.

<sup>11</sup> OJ L 181, 1.7. 1992, p. 1.

framework of the Euro-Mediterranean partnership,<sup>12</sup> Council Regulation (EC, Euratom) 99/2000 of 29 December 1999 (TACIS) concerning the provision of assistance to the partner States in Eastern Europe and Central Asia,<sup>13</sup> and Council Regulation (EC) No 1734/94 on financial and technical cooperation with the West Bank and the Gaza Strip,<sup>14</sup>

HAVE ADOPTED THIS REGULATION:

## TITLE I

### OBJECTIVES AND PRINCIPLES

#### *Article 1*

##### Subject matter and scope

- (1) This Regulation establishes a Neighbourhood and Partnership Instrument to provide assistance (hereinafter ‘Community assistance’) for the development of an area of prosperity and good neighbourliness involving the European Union and the countries listed in Annex 1 (hereinafter ‘partner countries’).
- (2) Community assistance shall be used for the benefit of partner countries. Community assistance may be used for the common benefit of Member States and partner countries, for the purpose of promoting crossborder and trans-regional cooperation as defined in Article 6.
- (3) The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights and seeks to promote commitment to these values in partner countries through dialogue and cooperation.

#### *Article 2*

##### Scope of assistance

- (1) Community assistance under the Neighbourhood and Partnership Instrument shall promote enhanced cooperation and progressive economic integration between the European Union and the partner countries and, in particular, the implementation of partnership and cooperation agreements, association agreements or other existing and future agreements.
- (2) Community assistance shall be used to support measures which pursue one or more of the following objectives:
  - (a) promoting political dialogue and reform;

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<sup>12</sup> OJ L 189 , 30.7.1996, p. 1. Regulation as last amended by Regulation (EC) No 2698/2000 (OJ L 311, 12.12.2000, p. 1).

<sup>13</sup> OJ L 12, 18.1.2000, p. 1.

<sup>14</sup> OJ L 182, 16.7.1994, p. [...] Regulation last amended by Regulation (EC) No 669/2004 (OJ L 105, 14.4.2004, p. 1).

- (b) promoting legislative and regulatory approximation in all relevant areas and in particular to encourage the progressive participation of partner countries in the internal market and the intensification of trade;
- (c) strengthening of national institutions and bodies responsible for the elaboration and the effective implementation of policies in areas covered in association agreements, partnership and cooperation agreement and other future comparable agreements;
- (d) promoting sustainable development;
- (e) promoting environmental protection and good management of natural resources;
- (f) supporting policies aimed at poverty reduction;
- (g) supporting policies to promote social development and gender equality, employment and social protection including social dialogues, and respect for trade union rights and core labour standards;
- (h) supporting policies to promote health, education and training;
- (i) promoting and protecting human rights and fundamental freedoms and supporting the democratisation process, including through electoral observation and assistance;
- (j) fostering the development of civil society;
- (k) promoting the development of a market economy, including measures to support the private sector, encourage investment and promote global trade;
- (l) promoting cooperation in the energy, telecommunication and transport sectors including on interconnections, the networks and their operations, the security and safety of international transport and energy operations, renewable energy sources, energy efficiency and clean transport;
- (m) providing support to actions aimed at increasing food safety for the citizens, in particular in the sanitary and phytosanitary domains;
- (n) ensuring efficient and secure border management;
- (o) promoting cooperation in the field of justice and home affairs, including on issues such as asylum and migration and the fight against and prevention of terrorism and organised crime, including its financing, money laundering and tax fraud;
- (p) supporting administrative cooperation to improve transparency and the exchange of information in the area of taxation in order to combat tax avoidance and evasion;
- (q) promoting participation in Community research and innovation activities;

- (r) promoting cooperation between the Member States and partner countries in higher education and mobility of teachers, researchers and students;
- (s) promoting understanding between cultures, people-to-people contacts, cooperation between civil societies and exchanges of young people;
- (t) supporting participation of partner countries in Community programmes and agencies;
- (u) supporting crossborder cooperation to promote sustainable economic, social and environmental development in border regions;
- (v) promoting regional cooperation and integration;
- (w) providing support in post-crisis situations, including support to refugees and displaced persons, and assisting in conflict prevention and disaster preparedness;
- (x) encouraging communication and promoting exchange among the partners on the measures and activities financed under the programmes;
- (y) addressing common thematic challenges in fields of mutual concern and any other objectives consistent with the scope of this Regulation.

### *Article 3*

#### Policy framework

The partnership and cooperation agreements, the association agreements and other existing or future agreements which establish a relationship with partner countries, and the relevant Commission communications and Council conclusions laying down guidelines for European Union policy towards these countries, shall provide an overall policy framework for the programming of assistance under this Regulation. Jointly agreed action plans or other equivalent documents shall provide a key point of reference for setting assistance priorities.

### *Article 4*

#### Complementarity, partnership and cofinancing

- (1) Community assistance under this Regulation shall normally complement or contribute to corresponding national, regional or local measures.
- (2) Community assistance under this Regulation shall normally be established in partnership between the Commission and the beneficiaries. The partnership shall involve, as appropriate, national, regional and local authorities, economic and social partners, civil society and other relevant bodies.
- (3) The beneficiary countries shall associate the relevant partners as appropriate, in particular at regional and local level, in the preparation, implementation and monitoring of programmes and projects.

- (4) Community assistance under this Regulation shall normally be cofinanced by the beneficiary countries through public funds, contributions from the beneficiaries or other sources.

#### *Article 5*

##### Coherence, compatibility and coordination

- (1) Programmes and projects financed under this Regulation shall be consistent with Community policies. They shall comply with the agreements concluded by the Community and its Member States with the partner countries and respect commitments under multilateral agreements to which they are parties.
- (2) The Commission and the Member States shall ensure coherence between Community assistance provided under this Regulation and financial assistance provided by the Community and the Member States through other internal and external financial instruments and by the European Investment Bank.
- (3) The Commission and the Member States shall ensure coordination of their respective assistance programmes with the aim of increasing effectiveness and efficiency in the delivery of assistance through progressive harmonisation of policies and procedures. Coordination shall involve the frequent and regular exchange of relevant information in particular at field level and shall constitute a key step in the programming processes of the Member States and the Community.
- (4) The Commission will, in liaison with the Member States, take the necessary steps to ensure proper coordination and cooperation with multilateral and regional organisations and entities, such as international financial institutions, United Nations agencies, funds and programmes, and non-EU donors.

## TITLE II

### PROGRAMMING AND ALLOCATION OF FUNDS

#### *Article 6*

##### Type of programmes

- (1) Community assistance shall be provided under this Regulation by means of:
  - (a) country or multicountry programmes, covering assistance to one partner country or addressing regional and subregional cooperation between two or more partner countries, in which Member States may participate;
  - (b) thematic programmes, addressing one or more specific challenges which are common to several partner countries and which may be relevant to one or more Member States;

- (c) crossborder cooperation programmes, covering cooperation between one or more Member States and one or more partner countries, taking place in regions adjacent to their shared part of the external border of the European Community.
- (2) Community assistance may be provided under this Regulation to transregional cooperation involving partner countries and Member States in the context of thematic programmes and multicountry programmes addressing regional and subregional cooperation.

### *Article 7*

#### Programming and allocation of funds

- (1) For country or multicountry and thematic programmes, strategy papers shall be adopted, in accordance with the procedure referred to in Article 26(2). Strategy papers shall reflect the policy framework and the action plans referred to in Article 3. Strategy papers shall be established for a period compatible with the priorities set in the policy framework and shall contain multiannual indicative programmes including indicative multiannual financial allocations. They shall be reviewed as and when necessary and may be revised in accordance with the procedure referred to in Article 26(2).
- (2) In establishing country or multicountry programmes the Commission shall determine the allocations for each programme taking into account the specific characteristics and the needs of the country or the region concerned, the level of ambition of the Union's partnership with a given country, the management capacity and the potential for absorption of funds.
- (3) For the sole purpose of crossborder cooperation, in order to establish the list of joint programmes referred to in Article 9(1), the indicative multiannual allocations and the territorial units eligible to participate in each programme, one or, if necessary, more specific strategy papers shall be adopted in accordance with the procedure referred to in Article 26(2). Such specific strategy paper(s) shall, in principle, cover a seven-year period from 1 January 2007 to 31 December 2013.
- (4) The European Regional Development Fund will contribute to crossborder cooperation programmes established and implemented under the provisions of this Regulation. The overall budget to be allocated to crossborder cooperation programmes, including the contribution from the European Regional Development Fund for borders with partner countries, shall be at least equivalent to twice the amount set out in the relevant provisions of Regulation (EC) No [...] laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the borders with partner countries.
- (5) In the event of crises or threats to democracy, the rule of law, human rights or fundamental freedoms, an emergency procedure may be used to conduct an ad hoc review of strategy papers. This review shall ensure coherence between Community assistance provided under this Regulation and assistance provided under other

Community financial instruments, including Regulation (EC) No [...] establishing an instrument for stability.

### TITLE III

## CROSSBORDER COOPERATION

### *Article 8*

#### Geographical eligibility

- (1) The crossborder cooperation programmes referred to in Article 6(1)(c) may cover all land borders and all maritime zones facing a common sea basin. The following territorial units shall be eligible for assistance under this Title:
  - (a) all territorial units corresponding to NUTS III-level or equivalent along the land borders between Member States and partner countries;
  - (b) all territorial units corresponding to NUTS-III level or equivalent along sea crossings of significant importance;
  - (c) all coastal territorial units corresponding to NUTS-II level or equivalent facing a sea basin common to Member States and partner countries.
- (2) In special cases, eligibility may be extended to territorial units adjoining those referred to in paragraph 1.
- (3) The list of sea crossings of significant importance shall be defined by the Commission in the strategy paper referred to in Article 7(3) of this Regulation on the basis of distance and other relevant geographical and economic criteria.

### *Article 9*

#### Programming

- (1) Crossborder cooperation under this Regulation shall be carried out in the framework of multiannual programmes covering cooperation for a border or a group of borders and comprising multiannual measures which pursue a consistent set of priorities and which may be implemented with the support of Community assistance (hereinafter 'joint programmes'). The joint programmes shall be based on the specific strategy paper(s) referred to in Article 7(3).
- (2) Joint programmes for land borders and sea crossings shall be established per border and include eligible territorial units belonging to one or more Member States and one or more partner countries. Joint programmes for coastal regions shall be multilateral and include eligible territorial units facing a common sea basin belonging to several participating countries, including at least one Member State and one partner country.
- (3) Countries other than the participating countries which face a common sea basin where a joint programme is being established may be associated with that joint

programme and benefit from Community assistance under the conditions determined in the implementing rules referred to in Article 11.

- (4) Within one year of the approval of the strategy paper referred to in Article 7(3), the participating countries shall jointly submit proposals for joint programmes to the Commission. The Commission shall adopt each joint programme after assessing its consistency with this Regulation and the implementing rules.
- (5) Joint programmes may be revised at the initiative of the participating countries or the Commission to take into account changes in cooperation priorities, socio-economic developments, the results observed from implementation of the measures concerned and from the monitoring and evaluation process, and the need to adjust the amounts of aid available and reallocate resources.
- (6) Following the adoption of the joint programmes, the Commission shall conclude a financing agreement with the participating countries in accordance with the relevant provisions of Regulation (EC, Euratom) No 1605/2002 of 25 June 2002, the Financial Regulation applicable to the general budget of the European Communities.<sup>15</sup>
- (7) Participating countries shall, taking into account the principle of partnership, jointly select those actions consistent with the priorities and measures of the joint programme that will receive Community assistance.
- (8) In exceptional circumstances, where a joint programme cannot be established owing to problems arising in relations between participating countries, the Commission may adopt a programme which is not a joint programme within the meaning of this Article but which allows the Member State border region or regions concerned to benefit from the assistance provided for in this Regulation.

#### *Article 10*

##### Management of programmes

- (1) Joint programmes shall, in principle, be implemented by a joint managing authority located in a Member State.
- (2) The participating countries may exceptionally propose to the Commission that the joint managing authority should be located in a partner country, provided that the designated body is in a position to apply in full the criteria laid down in the relevant provisions of Regulation (EC) No 1605/2002.
- (3) ‘Joint managing authority’ shall mean any public or private authority or body, including the state itself, at national, regional or local level, designated jointly by the Member State or States and the partner country or countries covered by a joint programme, having the financial and administrative capacity to manage Community assistance and having the legal capacity to conclude the agreements necessary for the purpose of this Regulation.

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<sup>15</sup> OJ L 248, 16.9.2002, p. 1.

- (4) The joint managing authority shall be responsible for managing and implementing the joint programme in accordance with the principle of sound financial management, and for ensuring the legality and regularity of its operations. To this end, it shall put in place appropriate management, control and accounting systems and standards.

#### *Article 11*

##### Implementing rules

- (1) Implementing rules laying down specific provisions for the implementation of this Title shall be adopted in accordance with the procedure referred to in Article 26(2).
- (2) Matters covered by the implementing rules shall include criteria and procedures for allocations of funds, rate of cofinancing, preparation of joint programmes, joint project selection, technical and financial management of the assistance, financial control and audit, monitoring and evaluation, visibility and publicity.

#### TITLE IV

#### IMPLEMENTATION

#### *Article 12*

##### Adoption of action programmes

- (1) The Commission shall adopt, normally on an annual basis, action programmes drawn up on the basis of the strategy papers referred to in Article 7(1).

Exceptionally, for instance where an action programme has not yet been adopted, the Commission may, on the basis of the strategy papers and multiannual indicative programmes referred to in Article 7, adopt measures not provided for in an action programme under the same rules and procedures as apply to action programmes.

- (2) Action programmes shall specify the objectives pursued, the fields of intervention, the expected results, the management procedures and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable.
- (3) For crossborder cooperation the Commission shall adopt joint programmes according to the procedures referred to in Article 9.
- (4) The Commission shall send action programmes and joint crossborder cooperation programmes to the Member States for their information within one month of adopting its decision.

### *Article 13*

#### Adoption of special measures not provided for in the strategy papers or multiannual indicative programmes

- (1) In the event of unforeseen needs or circumstances, the Commission shall adopt special measures not provided for in the strategy papers or multiannual indicative programmes (hereinafter “special measures”).

Special measures may also be used to fund activities to ease the transition from emergency aid to long-term development activities, including activities intended to ensure that the public is better prepared to deal with recurring crises.

- (2) Where the cost of such measures exceeds EUR 15 million, the Commission shall adopt them under the consultation procedure referred to in Article 26(3).

The procedure referred to in Article 26(3) need not be used for amendments to special measures such as those making technical adjustments, extending the implementation period, reallocating appropriations within the forecast budget, or increasing the size of the budget by less than 20% of the initial budget, provided these amendments do not affect the initial objectives set out in the Commission decision.

- (3) Special measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures used and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable.
- (4) The Commission shall send the special measures to the Member States for their information within one month of adopting its decision.

### *Article 14*

#### Eligibility

The following shall be eligible for funding under this Regulation for the purposes of implementing action programmes, joint crossborder cooperation programmes and special measures:

- (a) partner countries and regions and their institutions;
- (b) decentralised bodies in the partner countries, such as regions, departments, provinces and municipalities;
- (c) joint bodies set up by the partner countries and regions and the Community;
- (d) international organisations, including regional organisations, UN bodies, departments and missions, international financial institutions and development banks, in so far as they contribute to the objectives of this Regulation;

- (e) Community institutions and bodies, but only for the purposes of implementing support measures of the type referred to in Article 16;
- (f) European Union agencies;
- (g) the following entities and bodies of the Member States, partner countries and regions and any other third country complying with the rules on access to the Community's external assistance referred to in Article 21, in so far as they contribute to the objectives of this Regulation:
  - i. public or parastatal bodies, local authorities or administrations and consortia thereof;
  - ii. companies, firms and other private organisations and businesses;
  - iii. financial institutions that grant, promote and finance private investment in partner countries and regions;
  - iv. non-state actors as defined in (h);
  - v. natural persons;
- (h) the following non-state actors:
  - i. non-governmental organisations;
  - ii. organisations representing indigenous peoples;
  - iii. local citizens' groups and traders' associations;
  - iv. cooperatives, trade unions, organisations representing economic and social interests;
  - v. local organisations (including networks) involved in decentralised regional cooperation and integration;
  - vi. consumer organisations, women's and youth organisations, teaching, cultural, research and scientific organisations;
  - vii. universities;
  - viii. churches and religious associations and communities;
  - ix. the media;
  - x. any non-governmental associations and independent foundations likely to contribute to development;
- (i) any body or actor necessary to achieve the objectives of this Regulation.

## *Article 15*

### Types of measures

- (1) Community assistance shall be used to finance programmes, projects and any type of measure contributing to the objectives of this Regulation. It shall take the form of non-reimbursable grants.
- (2) Community assistance may also be used:
  - (a) to finance targeted administrative cooperation measures involving public-sector experts dispatched from Member States according to specifically designed rules;
  - (b) for sectoral or general budget support if the partner country's management of public spending is sufficiently transparent, reliable and effective, and where it has put in place properly formulated sectoral or macroeconomic policies approved by its principal donors, including, where relevant, the international financial institutions;
  - (c) for debt-relief programmes;
  - (d) for contributions to the European Investment Bank or other financial intermediaries, in accordance with the provisions of Article 24, for loan financing, equity investments, guarantee funds or investment funds;
  - (e) to provide interest-rate subsidies, in particular for environmental loans;
  - (f) to provide insurance against non-commercial risks;
  - (g) to contribute to a fund established by international and regional organisations, other donors or partner countries;
  - (h) to contribute to the capital of international financial institutions or the regional development banks;
  - (i) to finance the costs necessary for the effective administration and supervision of projects and programmes by the countries benefiting from Community assistance;
  - (j) for food aid;
  - (k) for other purposes, as appropriate.

## *Article 16*

### Support measures

- (1) Community financing may also cover expenditure associated with the preparation, follow-up, monitoring, auditing and evaluation activities directly necessary for the implementation of this Regulation and for the achievement of its objectives, e.g.

studies, meetings, information, awareness-raising, training and publication activities, expenditure associated with computer networks for the exchange of information and any other administrative or technical assistance expenditure that the Commission may incur for the management of the programme. It shall also cover expenditure at Commission Delegations on the administrative support needed to manage operations financed under this Regulation.

- (2) These support measures are not necessarily covered by multiannual programming and may therefore be financed outside the scope of strategy papers and multiannual indicative programmes. However, they may also be financed under multiannual indicative programmes. The Commission shall adopt support measures not covered by multiannual indicative programmes in accordance with Article 13.

### *Article 17*

#### Cofinancing

- (1) Measures financed under this Regulation shall be eligible for cofinancing from the following, *inter alia*:
  - (a) Member States, and in particular their public and parastatal agencies;
  - (b) other donor countries, and in particular their public and parastatal agencies;
  - (c) international organisations, including regional organisations, and in particular international and regional financial institutions;
  - (d) companies, firms, other private organisations and businesses, and other non-state actors;
  - (e) partner countries and regions in receipt of funding.
- (2) In the case of parallel cofinancing, the project or programme is split into a number of clearly identifiable sub-projects which are each financed by the different partners providing cofinancing in such a way that the end-use of the financing can always be identified. In the case of joint cofinancing, the total cost of the project or programme is shared between the partners providing the cofinancing, and resources are pooled in such a way that it is not possible to identify the source of funding for any given activity undertaken as part of the project or programme.
- (3) In the case of joint cofinancing, the Commission may receive and manage funds on behalf of the bodies referred to in paragraph 1(a) (b) and (c) for the purpose of implementing joint measures. Such funds shall be treated as assigned revenue, in accordance with Article 18 of Regulation (EC) No 1605/2002.

## Article 18

### Management procedures

- (1) The Commission shall implement operations under this Regulation in accordance with Regulation (EC) No 1605/2002.
- (2) In the event of cofinancing and in other duly justified cases, the Commission may entrust tasks of public authority, and in particular budget implementation tasks, to the bodies indicated in Article 54(2)(c) of Regulation (EC) No 1605/2002.
- (3) The Commission shall conclude framework agreements with partner countries which shall provide for all measures necessary to ensure the effective implementation of Community assistance and protection of the Community's financial interests.
- (4) In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary partner country or region, provided:
  - the procedures of the beneficiary partner country or region satisfy the principles of transparency, proportionality, equal treatment and non-discrimination and prevent any conflict of interests;
  - the beneficiary partner country or region undertakes to check regularly that the operations financed by the Community budget have been properly implemented, to take appropriate measures to prevent irregularities and fraud, and, if necessary, to take legal action to recover unduly paid funds.

## Article 19

### Budget commitments

- (1) Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 9(5), 12(1), 13(1) and 16(3).
- (2) Budget commitments for measures extending over a number of financial years may be split into annual instalments, spread over a number of years.
- (3) Community financing may take one of the following legal forms, *inter alia*:
  - financing agreements;
  - grant agreements;
  - procurement contracts;
  - employment contracts.

## *Article 20*

### Protecting the Community's financial interests

- (1) Any agreements resulting from this Regulation shall contain provisions ensuring the protection of the Community's financial interests, in particular with respect to fraud, corruption and any other irregularities, in accordance with Council Regulations (EC, Euratom) Nos 2988/95, No 2185/96 and No 1073/1999.
- (2) Agreements shall expressly entitle the Commission and the Court of Auditors to perform a document audit or an on-the-spot audit of any contractor or subcontractor who has received Community funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections, as provided for in Regulation (EC, Euratom) No 2185/96.
- (3) All contracts resulting from the implementation of assistance shall ensure the rights of the Commission and the Court of Auditors under paragraph 2 during and after the performance of the contracts.

## *Article 21*

### Participation in tenders and contracts

- (1) Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural or legal persons from Member States of the European Community coming within the scope of the Treaties.
- (2) Participation in the award of procurement or grant contracts financed under this Regulation shall also be open to all natural and legal persons from:
  - any country that is a beneficiary under this Regulation,
  - any country that is a beneficiary of the Instrument for Pre-Accession,
  - any Member State of the European Economic Area.
- (3) Participation in the award of procurement or grant contracts financed under this Regulation shall be open to international organisations.
- (4) The Commission may decide to open, wholly or partially, participation in the award of procurement or grant contracts financed under this Regulation to natural and legal persons of any other country in cases where reciprocal access to external assistance has been established.
- (5) Experts proposed in the context of procedures for the award of contracts need not comply with the nationality rules set out above.
- (6) All supplies and materials purchased under contracts financed under this Regulation shall originate in the Community or a country eligible under paragraph 2.

- (7) The Commission may, in duly substantiated cases, authorise the participation of natural and legal persons from countries having traditional economic, trade or geographical links with neighbouring countries or from other third countries, and the use of supplies and materials of different origin.
- (8) Where assistance under this Regulation is managed by a joint managing authority, as referred to in Article 10, delegated to national bodies, as referred to in Article 18, or jointly managed with international organisations, the procurement rules, including those for participation in the award of procurement and grant contracts, and the rules of origin shall be those applied by the management body. Participation in the award of procurement and grant contracts shall be open to all natural and legal persons referred to in paragraphs (1), (2), (3) and (4) and to all natural and legal persons of any other country, in accordance with the rules of the management body.

#### *Article 22*

##### Prefinancing

Interest generated by prefinancing payments to beneficiaries shall be deducted from the final payment.

#### *Article 23*

Funds made available to the European Investment Bank or other financial intermediaries

- (1) The funds referred to in Article 15(2)(c) shall be managed by financial intermediaries, the European Investment Bank or any other bank or organisation capable of managing them.
- (2) The Commission must adopt implementing provisions for paragraph 1 on a case-by-case basis to cover risk-sharing, the remuneration of the intermediary responsible for implementation, the use and recovery of profits on funds, and the closure of the operation.

#### *Article 24*

##### Evaluation

- (1) The Commission shall regularly evaluate the results of geographical and thematic policies and programmes and of sectoral policies and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations.
- (2) The Commission shall send its evaluation reports to the Committee referred to in Article 26 for information.

TITLE V  
FINAL PROVISIONS

*Article 25*

Annual report

The Commission shall examine the progress made on implementing the measures taken under this Regulation and shall submit to the European Parliament and the Council an annual report on the implementation of the assistance. This report shall also be submitted to the European Economic and Social Committee and to the Committee of the Regions. It shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, and the implementation of budget commitments and payments broken down by country, region and cooperation sector.

*Article 26*

Committee

- (1) The Commission shall be assisted by a committee.
- (2) Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 4(3) of that Decision shall be 30 days.
- (3) Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
- (4) The committee shall adopt its rules of procedure.

*Article 27*

Participation by a third country not eligible under this Regulation

To ensure the coherence and effectiveness of Community assistance, the Commission may decide when adopting action programmes of the type referred to in Article 12 or the special measures referred to in Article 13, that countries, territories and regions eligible for Community assistance under the Pre-Accession Instrument or the financing instrument for development and economic cooperation and the overseas countries and territories associated with the Community are eligible for measures under this Regulation where the project or programme implemented is of a global, regional or crossborder nature.

Provision may be made for this method of financing possibility in the strategy papers referred to in Article 7.

The provisions of Article 14 concerning eligibility and the provisions of Article 16 concerning participation in procurement procedures shall be adapted to allow the countries, territories or regions concerned to take part.

## *Article 28*

### Suspension of assistance

Without prejudice to the provisions on the suspension of aid in partnership and cooperation agreements and association agreements with partner countries and regions, where a partner country fails to observe the principles referred to in Title I, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps in respect of any assistance granted to the partner country under this Regulation.

## *Article 29*

### Financial reference amount

The financial reference amount for implementation of this Regulation over the period 2007-2013 is € 14 929 million. Annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.

## *Article 30*

### Review

The Commission shall submit to the European Parliament and the Council by 31 December 2011 any proposals concerning the future of this Regulation and any amendments that may be necessary.

## *Article 31*

### Repeal

- (1) As of 1 January 2007, the following Regulations are repealed:
  - Council Regulation (EEC) No 1762/92 of 29 June 1992 on the implementation of the Protocols on financial and technical cooperation concluded by the Community with Mediterranean non-member countries
  - Council Regulation (EC) No 1734/94 of 11 July 1994 on financial and technical cooperation with the Occupied Territories
  - Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership
  - Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia.
- (2) The repealed Regulations shall continue to apply for legal acts and commitments of pre-2007 budget years.

*Article 32*

Entry into force

This Regulation shall enter into force twenty days after its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007.

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*  
[...]

**ANNEX**

**Partner countries referred to in Article 1**

Algeria

Armenia

Azerbaijan

Belarus

Egypt

Georgia

Israel

Jordan

Lebanon

Libya

Moldova

Morocco

Palestinian Authority of the West Bank and Gaza Strip

Russian Federation

Syria

Tunisia

Ukraine

## LEGISLATIVE FINANCIAL STATEMENT

### **Policy area(s): EXTERNAL RELATIONS**

#### **Activit(y/ies):**

MULTILATERAL RELATIONS AND GENERAL EXTERNAL RELATIONS MATTERS <sup>16</sup>

EUROPEAN INITIATIVE FOR DEMOCRACY AND HUMAN RIGHTS (EIDHR) <sup>16</sup>

RELATIONS WITH EASTERN EUROPE, THE CAUCASUS AND CENTRAL ASIAN REPUBLICS <sup>16</sup>

RELATIONS WITH THE MIDDLE EAST AND SOUTHERN MEDITERRANEAN

POLICY STRATEGY AND COORDINATION FOR POLICY AREA ‘EXTERNAL RELATIONS’ <sup>16</sup>

EXTERNAL ASPECTS OF INTERNAL POLICIES

**TITLE OF ACTION:** EUROPEAN NEIGHBOURHOOD AND PARTNERSHIP INSTRUMENT (ENPI)

### **1. BUDGET LINES**

#### **Administrative Expenditures**

##### *External Aspects of internal policies*

06 01 04 09 Intelligent energy – Expenditures on administrative management (*partially*)

07 01 04 05 LIFE European Financial Instrument for the Environment — 2000 to 2006) — Operations outside Community territory — Expenditure on administrative management (*partially*)

##### *External Relations policy area*

19 01 ADMINISTRATIVE EXPENDITURE OF POLICY AREA “EXTERNAL RELATIONS”

19 01 04 06 MEDA (measures to accompany the reforms of the economic and social structures in the Mediterranean non-member countries) – Expenditure on administrative management

19 01 04 07 Assistance to partner countries in eastern Europe and central Asia – Expenditure on administrative management (*partially*)

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<sup>16</sup> Partially, as some of the actions currently covered under this budget heading will be covered under the Economic Co-operation and Development Instrument and/or the Stability instrument.

- 19 01 04 11 Development and consolidation of democracy and the rule of law – Respect for human rights and fundamental freedoms – Expenditure on administrative management (*partially*)
- 19 01 04 12 Promotion of Community investment in developing countries of Latin America, Asia, the Mediterranean and in South Africa by economic co-operation and trade agreements – Expenditure on administrative management (*partially*)
- 19 49 EXPENDITURE ON ADMINISTRATIVE MANAGEMENT OF PROGRAMMES COMMITTED IN ACCORDANCE WITH THE FORMER FINANCIAL REGULATION
- 19 49 04 06 Assistance to partner countries in eastern Europe and central Asia – Expenditure on administrative management (*partially*)
- 19 49 04 10 Development and consolidation of democracy and the rule of law – Respect for human rights and fundamental freedoms – Expenditure on administrative management (*partially*)
- 19 49 04 11 Promotion of Community investment in developing countries of Latin America, Asia, the Mediterranean and in South Africa by economic co-operation and trade agreements – Expenditure on administrative management (*partially*)
- 19 49 04 12 MEDA (measures to accompany the reforms of the economic and social structures in the Mediterranean non-member countries) – Expenditure on administrative management

### **Operational expenditures**

#### *External Aspects of internal policies*

- 06 04 02 Intelligent energy — Europe programme (2003 to 2006): external strand — Coopener (*partially*)
- 07 02 02 LIFE (European Financial Instrument for the Environment — 2000 to 2006 — Operations outside Community territory (*partially*))
- 14 03 02 Customs co-operation and international assistance (Customs 2007) (*partially*)

#### *External Relations policy areas*

### 19 02 MULTILATERAL RELATIONS AND GENERAL EXTERNAL RELATIONS MATTERS

- 19 02 02 Institutes specialising in relations between the European Union and third countries
- 19 02 03 Cooperation with third countries on migration (*partially*)

- 19 02 07 Promotion of Community investment in developing countries of Latin America, Asia, the Mediterranean and in South Africa by economic cooperation and trade agreements (*partially*)
- 19 02 11 North-South cooperation schemes in the campaign against drugs and drug addiction (*partially*)
- 19 04 EUROPEAN INITIATIVE FOR DEMOCRACY AND HUMAN RIGHTS (EIDHR)
- 19 04 02 Support for the victims of human rights' abuses (*partially*)
- 19 04 03 Development and consolidation of democracy and the rule of law – Respect for human rights and fundamental freedoms (*partially*)
- 19 04 04 Support for the activities of international criminal tribunals and the International Criminal Court (*partially*)
- 19 06 RELATIONS WITH EASTERN EUROPE, THE CAUCASUS AND CENTRAL ASIAN REPUBLICS
- 19 06 01 Assistance to partner countries in Eastern Europe and central Asia (*partially*)
- 19 06 02 Cross-border cooperation in structural matters (*partially*)
- 19 06 04 Rehabilitation and reconstruction operations in the partner countries of Eastern Europe and central Asia (*partially*)
- 19 08 RELATIONS WITH THE MIDDLE EAST AND SOUTHERN MEDITERRANEAN
- 19 08 01 01 First and Second Financial Protocols with the southern Mediterranean countries
- 19 08 01 02 Third and Fourth Financial Protocols with the southern Mediterranean countries
- 19 08 02 01 MEDA (measures to accompany the reforms to the economic and social structures In the Mediterranean non-member countries)
- 19 08 02 02 Community contribution to the Euro-Mediterranean Investment Facility and Partnership
- 19 08 03 Community operations connected with the Israel / PLO peace agreement
- 19 08 04 Aid to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East
- 19 08 05 Rehabilitation and reconstruction operations in the Mediterranean and Middle Eastern countries (*partially*)
- 19 08 06 Other operations in favour of Middle East developing countries (*partially*)

## 2. OVERALL FIGURES

### 2.1 Total allocation for action (Part B): € 14 929 million

### 2.2 Period of application: 2007-2013

### 2.3 Overall multiannual estimate of expenditure: (current prices)

- (a) Schedule of commitment appropriations/payment appropriations (financial intervention) (see point 6.1.1)

€ million (to three decimal places)

	2007	2008	2009	2010	2011	2012	2013 and following <sup>17</sup>	Total
Commitments	1.376	1.506	1.802	2.000	2.229	2.536	2.883	14.332
Payments	206	432	744	1.117	1.508	1.816	8.509	14.332

- (b1) Technical and administrative assistance: of which staff (see point 6.1.2):

Commitments	33	37	45	51	59	68	78	371
Payments	33	37	45	51	59	68	78	371

- (b2) Technical and administrative assistance of which support expenditure (see point 6.1.2):

Commitments	24	26	30	32	34	38	42	226
Payments	24	26	30	32	34	38	42	226

Subtotal a+b								
Commitments	1.433	1.569	1.877	2.083	2.322	2.642	3.003	14.929
Payments	263	495	819	1.200	1.601	1.922	8.629	14.929

- (c) Overall financial impact of human resources and other administrative expenditures (see points 7.2 and 7.3)

€ million (to three decimal places)

Commitments/Payments	69	78	95	107	122	142	164	777
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<sup>17</sup> "Following years" only applies to payments

TOTAL a+ b2+c								
Commitments	1.469	1.610	1.927	2.139	2.385	2.716	3.089	15.335
Payments	299	536	869	1.256	1.664	1.996	8.715	15.335

## 2.4 Compatibility with financial programming and financial perspective

Proposal compatible with existing financial programming.

## 2.5 Financial impact on revenue

Proposal has no financial implications on revenue.

## 3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions form applicant countries	Heading in financial perspective
Non-comp	Diff	YES	NO	NO	4

## 4. LEGAL BASE

Article 181a and Article 179 of the EC Treaty.

## 5. DESCRIPTION AND GROUNDS

### 5.1. Need for Community intervention

#### 5.1.1. Objectives pursued

The European Council has repeatedly stated its determination that enlargement of the Union must not lead to new dividing lines at the external borders of the EU of 25. The European Neighbourhood Policy was conceived as a way to respond to this challenge and develop increasingly close relations with our neighbours to the East and South. The Commission has presented a “Strategy Paper on the European Neighbourhood Policy”<sup>18</sup> (ENP) which spells out how the Union will continue to promote stability, security and prosperity beyond its borders by deepening political cooperation and intensifying economic relations with Russia, the Western NIS, the Southern Caucasus and the Southern Mediterranean countries. Regional and cross-border cooperation should be intensified.

The ENP covers a wide range of areas: political dialogue and reform; trade; measures preparing partners for gradually obtaining a stake in the Internal Market; justice and home affairs; energy, transport, information society, environment, and research and innovation; social policy and people-to-people contacts, including the opening of certain Community programmes; and cross-border and regional co-operation.

<sup>18</sup> European Neighbourhood Policy Strategy Paper COM(2004) 373 [and separate explanatory note?].

The ENP is aimed at developing the full potential of the Association Agreements and Partnership and Cooperation Agreements which for the time being continue to constitute the contractual frameworks for relations between the EU and the neighbouring countries concerned.

The main operational tools of the ENP are the Action Plans drawn up jointly with partner countries. Action Plans identify priority measures for political and economic reform, and enhanced co-operation in all the relevant areas. They will be a key point of reference for the country-specific programming of Community assistance (see 5.2).

The development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms constitute key objectives of the European Union's external policies. Within the framework of the present Regulation and its geographical scope, the European Community will contribute to the implementation of operations advancing respect for human rights and fundamental freedoms, promoting and strengthening democratic processes, including where appropriate through election observation and assistance, and developing and consolidating the rule of law and good governance.

The proposed European Neighbourhood and Partnership Instrument (ENPI) will be the main financial instrument to support the implementation of ENP and it will focus in particular on supporting the implementation of the ENP Action Plans. Its scope will go beyond promoting objectives such as sustainable development or fighting poverty to encompass for example considerable support for measures leading to progressive participation in the EU's internal market. Legislative approximation, regulatory convergence and institution building will be supported through mechanisms such as the exchange of experience, long term twinning arrangements with Member States or participation in Community programmes and agencies.

The ENPI will improve the coherence and visibility of Community assistance and allow for simplified delivery mechanisms. A specific and innovative feature of the instrument is its cross border co-operation component. Under this component, the ENPI will finance "joint programmes" bringing together regions from Member States and partner countries sharing a common border. The instrument will bring a radical simplification in procedures and substantial gains in efficiency. It will use a "Structural Funds" approach, based on multi-annual programming, partnership and co-financing. The cross border co-operation component of the ENPI will be co-financed by the European Regional Development Fund (ERDF).

The EU and Russia have decided to develop their relations in the framework of a Strategic Partnership based on four common spaces, rather than through the European Neighbourhood Policy. However, the issues discussed in this framework are largely similar to those dealt with in the ENP context. For this reason the ENPI will also cover Community assistance to Russia.

The partner countries' ability to meet the commitments of the Action Plans and thus move to a more advanced stage of relations with the EU will constitute the main indicator of success for the proposed approach. Periodic reporting by the Commission on progress in the implementation of the Action Plans through the institutional framework already in place (sub-committees etc.) will provide a constant feedback.

## 5.1.2.and 5.1.3 Ex post and ex ante evaluation

### *a) The work of the Peace Group*

The Commission carried out in the second half of 2003 an extensive high-level review of the whole range of European Community external instruments, in the context of the preparation of its proposals for the new financial perspectives. The Commission established the “Peace Group” which was tasked with leading the identification of the future priorities for external relations and the instruments needed to serve those priorities. This Group functioned at both the level of the external relations Commissioners and the services. It met regularly between April and December 2003 and developed the principles, which were set out in the Communication “Building our Common Future, Policy Challenges and Budgetary Means of the Enlarged Union 2007-2013”<sup>19</sup>. The need to align objectives and instruments more closely to European Union values and interests was identified as being fundamentally important.

In particular, the “Peace Group” underlined that the European Union’s values, reflected by its democratic tradition, social model and integration experience, include human dignity, the rule of law, human rights, solidarity, equality between the sexes, adherence to the multilateral system of the United Nations and support, within the multilateral economic system, for regionalism as a force for development and stability. It emphasised that its interests drive the European Union to promote stable international growth founded on sustainable development. In this way it guarantees itself increasing outlets and quality jobs on competitive, open and regulated markets. Finally, the “Peace Group” recommended that the European Union promotes its values and interests by operating simultaneously as a continental power, and as a global economic and political player.

As far as external community instruments are concerned, the “Peace Group” recognised that the European Union's co-operation and assistance policy is the result of 50 years of successive sedimentation, which results in a multiplication of assistance instruments and a fragmentation of aid management both in terms of programming and implementation functions (even if recent policy and structural reforms have helped to improve coherence and consistency of the European Union's co-operation and assistance policy).

The “Peace Group” put forward that the European Union’s framework for external assistance should be rationalised and simplified by a reduction in the number of legal bases, the number of budget lines, and the number of programmes. More precisely, it recommended that:

- the complex structure of existing aid programs (EDF, ALA, MEDA, TACIS, CARDS, etc...) covering a wide range of interventions (peacekeeping and post-crisis operations; rehabilitation; economic reforms; projects; human rights programs; budgetary support) should be significantly streamlined;
- European Community and Member States policies and implementation should be harmonised.

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<sup>19</sup> COM(2004) 101 du 10 février 2004.

Furthermore, the “Peace Group” underlined the following points:

- Large geographic programmes based on the principles of ownership and partnership with partner countries and regions and thematic programmes allowing for policy initiatives by the Community should be maintained;
- Strategy papers, subject to regular reviews, are the right tool to ensure overall policy coherence and to respect external policy objectives in the different areas as well as in the external aspects of internal policies;
- Resources should be allocated to partner countries according to expected and measured performances and strategy papers process, backed up by stronger analytical capabilities, should confront goals and achievements;
- Performance-based allocations do not mean increased conditionality in the traditional sense and the issue of political conditionality should be approached cautiously, on the basis of lessons drawn from experience;
- Though this is not necessarily a solution in each and every case, such concerns for results, namely the political and economic reforms in the partner countries, leads the Commission to suggest, where possible, moving further financial and technical assistance from projects towards sector programmes, budget support and macro-economic financial assistance which facilitate both the absorption by the partner country since its own budgetary procedures are used, and donors’ co-ordination as well as quick disbursement subject to compliance though.

The current proposal also takes account of the vast literature of work on development, the practice of other international and bi-lateral donors, as well as of the principles and objectives of the reform of the management of external assistance launched by the Commission in May 2000.

#### ***b) Evaluation of existing instruments operating in neighbouring countries -introduction***

The ENPI is a policy-driven instrument that will bring more coherence in the delivery of Community assistance to all countries covered by the ENP. It will replace TACIS, MEDA and a number of thematic programmes. It will also replace the cross-border cooperation programmes financed by TACIS and MEDA as well as by Interreg.

All these instruments have been in operation for some time, during which considerable evaluation work has been carried out.

Regarding MEDA II, this continuous evaluation and refinement process will culminate in a major overall evaluation to be reviewed by the Council in 2006. Its outcome will provide a major input to an ex ante evaluation for its successor instrument.

As far as TACIS is concerned, a proposal for a revision of the regulation currently in force has been elaborated for the period 2005-2006. This proposal is also based on a specific ex ante evaluation.

Cross border co-operation has been subject to considerable interim and ex post evaluation work outlining the difficulties that different budget lines and different programming and

implementing structures have created to the financing of truly joint projects operating on both sides of the Union's external borders.

A summary of the findings of this evaluation work is given below. Lessons learnt in this context have been used in the elaboration of the ENPI concept.

## **b) TACIS**

A detailed *ex ante* evaluation has been carried out for a revised TACIS regulation for the period 2005-2006. It included detailed stakeholder consultation and *ex post* evaluation of lessons learnt.

The evaluation revealed that overall, the appropriateness of the TACIS approach has faded over time. At the time of initial design in the early 1990s, TACIS correctly identified the need to support to democratic and economic transition. More recently, partner countries display widely varying results in terms of growth, poverty reduction, democracy and credible reforms. In the face of this increased divergence, the focus on technical assistance is seen as far less appropriate.

While having achieved notable results, TACIS has consistently had difficulties in ensuring sufficient ownership by partner countries. It only had a moderate effect on overall reforms. The procedures have been criticised as heavy and slow, thereby putting obstacles in the way of responsiveness and flexibility, essential elements for technical assistance.

The evaluation has produced a list of recommendations including, *inter alia*: tailor assistance programmes better to country needs through greater differentiation; improve ability to support poverty reduction, pay more attention to capacity-building and the rule of law; conditionality should be linked to ongoing reform efforts; improve funding and coordination with Interreg and Phare CBC; improve the efficiency of the institutional set-up for implementation; and the strengthen ability to learn from experience and to disseminate lessons.

## **c) MEDA**

The MEDA regulation currently in force provides for an evaluation to be done by 31 December 2005. This evaluation will provide further elements to improve programming and delivery of assistance under the ENPI.

Meanwhile, there is an ongoing programme of evaluations, whose recommendations prepare the ground for the *ex ante* evaluation. Most recently an evaluation was conducted in 2003/04 covering economic cooperation with seven MED partners: Algeria, Egypt, Jordan, Lebanon, Morocco, Syria and Tunisia. The main recommendations were:

- *At strategic level*: Continue and improve the practice of designing (and regularly updating) an explicit strategy at country level. Assist partner countries in identifying their strengths and weaknesses with respect to social and economic development, and in designing their own strategies and programmes to prepare the establishment of the Euro-Mediterranean Free-Trade-Area.
- *At programming level*: Link Structural Adjustment Facilities and technical assistance projects. Develop complementarities with regional programmes and with EIB lending activities. Adopt a comprehensive approach to the financing of

SMEs. The newly created Facility for Euro-Mediterranean Investment and Partnership (FEMIP) is a very important step in this direction. Devote more attention to the enhancement of trade and external economic relations.

- *At implementation level:* Generally speaking the process of “deconcentration” should favour more efficient management of the projects. Project preparation and monitoring should be strengthened. Where conditions are met, full responsibility for the management should be given to local authorities. Support to the development of local consultancy capacities should be considered.

#### **d) Cross-border cooperation (CBC)**

The CBC component of the ENPI builds on the experience of promoting cross-border cooperation within the Phare, Tacis and Interreg programmes. Starting with the Communication on the “New Neighbourhood Instrument”, the reflection leading to the present proposal drew heavily upon the lessons learnt from these current programmes. Therefore, although a formal *ex ante* evaluation has not been made yet, all the points that should be covered by such an evaluation as specified in the Financial Regulation and its Implementing Rules have been addressed at the reflection stage. Meetings were held with evaluators and experts, and input received from NGOs.

Interreg II (1994 – 99) was recently subjected to an ex-post evaluation commissioned by DG Regio (December 2003). The results are in general satisfactory with an extensive added value generated by the programmes of all its strands. Among the shortcomings identified were Member States’ programme management and difficulties in establishing functioning cross-border partnerships. These issues deserve of course special attention when it comes to implementing a new instrument like the ENPI and fostering a “cooperation culture” in border regions where the new Member States have limited experience of CBC and the Partner Countries no previous direct experience at all.

CBC programmes have also been subject to audits in the past by the Court of Auditors. The CoA remarked the absence of strong co-ordination mechanisms for CBC projects which involved funding under different instruments such as Interreg, Phare and Tacis. This problem has also been identified in the Commission’s evaluations and addressing it is one of the primary objectives of the ENPI. As regards Phare CBC, the existence of different Phare and Structural Funds rules for project selection, tendering, contracting and monitoring proved to be a deterrent to joint projects across the borders. The ENPI, as a unified instrument stressing joint ownership, should overcome the obstacles to joint programmes and projects.

Other observations relevant for the ENPI included that the allocation of funds between countries did not adequately take into account their absorption capacities. The distribution of funds between larger and smaller projects and their cross-border impact was also questioned. Another observation concerned delays in the implementation of projects due to lengthy procurement procedures and problems with customs clearance in the beneficiary countries.

The observations and recommendations resulting from the various evaluation work referred to above have been taken into account for the drafting of the ENPI regulation here proposed.

## **e) Conclusions - Added value of Community intervention**

Effective support is needed to underpin a policy of contributing to a peaceful, stable, democratic and prosperous neighbourhood. This new policy driven instrument is specifically designed for that purpose.

There is also a gap to be bridged between the level of ambition of the policy and the resources currently allocated to it by the Community and its Member States. Community assistance remains below the expectation of the beneficiaries and most bilateral assistance programmes are small.

Regarding CBC, the ENPI added value will first and foremost consist in addressing specific problems associated with national borders or issues of a transnational nature, which otherwise would not be addressed. The ENPI will have a financial leverage effect for the EU neighbouring countries/regions by matching national co-financing with EU funds. Finally the implementation of the ENPI will allow for the dissemination of sound financial management and good practice in terms of programming and project design, management, implementation, financial control, monitoring and evaluation.

### **5.2. Action envisaged and budget intervention arrangements**

The Partnership and Co-operation agreements and the Association agreements will provide an overall policy framework for Community assistance. Where they exist, jointly agreed action plans drawn up by the EU and each partner country will define priorities for action in the areas described above.

Within that framework it is expected that the instrument will promote enhanced co-operation and progressive economic integration between the EU and the partner countries. In that context promoting legislative and regulatory approximation to encourage progressive participation in the internal market and the intensification of trade is a key strategic objective of the instrument.

While the ENP provides a clear policy focus for the instrument, the provision of assistance shall take into account, for those partner countries that are developing countries, the principles and objectives of the Community development policy.

Individual actions and measures, specific objectives and corresponding criteria to measure their attainment will be defined in Country Strategy Papers and National Indicative Programmes. These will be elaborated on the basis of the Action Plans and in-depth analyses of a given country's situation and needs, its capacities and track-record in implementing commitments made, and also the level of ambition in our bilateral relations, such as the actual commitment to shared values.

It is expected that the mix between the various objectives will vary considerably taking into account the specific situation of each of the 17 the countries concerned. While assistance to Ukraine or co-operation with Russia and Israel can focus mainly on legislative and regulatory approximation, assistance to Moldova, Azerbaijan or Egypt should continue to have a significant component focussing on poverty reduction and more traditional development objectives. Similarly the geographical, economic, social and cultural specificities of the two main "regional" groups covered by the instrument (Mediterranean Countries on one side and

Russia, WNIS and Southern Caucasus on the other) should be adequately reflected in the objectives to be pursued and the measures to be financed.

The ENPI will have a specific component covering Cross border co-operation between Member States and partner countries. This component will be mainly geared towards promoting sustainable economic, social and environmental development in border regions of the EU and the member states. This component will be implemented through multi-annual programmes elaborated in partnership by the beneficiaries from both sides of the borders and approved by the Commission. In addition it will be possible to associate Member States to multi-country or thematic programmes through trans-regional co-operation addressing global challenges common to the EU and its neighbours.

The ENPI will also cover external aspects of internal policies which, in the current financial perspective are covered under specific legal instruments. This will provide the possibility for mainstreaming thematic actions into country and regional programmes allowing for better co-ordination and synergy. The regulation also provides the possibility of creating thematic programmes when it is considered appropriate for reasons of efficiency, effectiveness or visibility. This is an option that may be pursued in areas such as Human Rights, migration management, environment or students mobility and co-operation among higher education institutions.

Concerning the field of promoting democratisation and the rule of law, and respect for human rights and fundamental freedoms a thematic programme receiving Community support in pursuit of the present Regulation's objectives may include

- pertinent global, regional and country projects and programmes of local and EU non-governmental and civil society based organisations,
- cooperation with international organisations in the field of democratisation and human rights.

In the area of migration management, a thematic programme, operating in complementarity with measures supported under country and regional programmes may focus on:

- the development of third country's legislation in the field of legal immigration;
- the development of legal migration;
- the development of legislation and national practices as regards international protection;
- the establishment in the third countries concerned of an effective and preventive policy in the fight against illegal migration, including the fight against trafficking in human being and smuggling of migrants, and the development of relevant legislation;

Relevant indicators will have to be developed for each measure. The extensive experience already made will be useful, as reflected for instance in the Working Paper on Indicators for Interreg developed by DG REGIO. They will cover aspects such as co-financing, multiplication effect, transfer of knowledge, capacity building.

Target population: The ENPI targets over 400 million people in 17 countries. Russia and the Western NIS (Belarus, Ukraine, Moldova) have a total population of 208 million people, the countries of Southern Caucasus ( (Georgia, Armenia, Azerbaijan) 16 million people and the

countries of the southern Mediterranean ( Syria, Lebanon, Israel, the Palestinian Authority, Jordan, Egypt, Algeria, Tunisia, Libya, and Morocco) 176 million.

It is estimated that around 65 million people in member states and partner countries will benefit from bilateral cross border co-operation programme and over 175 million people will be involved into multi-lateral maritime programmes.

The large number of co-operation objectives, related to the need to support a new and ambitious policy and the broadening of the scope of the instrument to support thematic actions and cross border co-operation with member states justify the considerable increase in resources which is foreseen for the ENPI in the future financial perspective.

### 5.3. Methods of implementation

Programmes may be implemented under direct centralised management by the Commission from Headquarters and/or through the devolved Delegations using both statutory and temporary staff. They may also be implemented under decentralised management by the beneficiary country and under joint management with international organisations. The Regulation also leaves open the possibility for programme implementation under indirect centralised management arrangements by national public sector bodies or bodies governed by private law with a public service mission or by an executive agency for programme implementation.

Cross-border co-operation programmes will be normally implemented through shared management by a managing authority located in Member States.

## 6. FINANCIAL IMPACT

### 6.1 Total financial impact on Part B – (over the entire programme) (current prices)

#### 6.1.1 Financial intervention

Commitments € million (to three decimal places)

Breakdown	2007	2008	2009	2010	2011	2012	2013	Total
Assistance to EU neighbouring countries	1.376	1.506	1.802	2.000	2.229	2.536	2.883	14.332

\* A contribution of the European Regional Development Fund to Cross Border co-operation programmes managed under the provisions of this regulation and originally included under Heading 1b of the financial perspective, should be added to this amount at the moment of the budget preparation. The Structural Funds regulation sets aside an estimated amount of 233 M€ a year (in 2004 prices) as a contribution from European Regional Development Fund to cross border co-operation between the Member States and the relevant neighbouring countries covered by the ENPI and by the Instrument for Pre Accession (IPA). This contribution will be managed according to the rules established in the ENPI and in the IPA regulation.

Symmetrically IPA and ENPI stipulates that their contribution to Cross border co-operation with member states will be at least equivalent to the one provided by the ERDF.

The fact that the breakdown of the ERDF contribution between the borders covered by ENPI and those covered by IPA is not yet known makes difficult to provide an estimation of the overall amount dedicated to CBC under this specific regulation.

#### 6.1.2 Technical and administrative assistance, support expenditure and IT expenditure

Commitments € million (to three decimal places)

Breakdown	2007	2008	2009	2010	2011	2012	2013	Total
Assistance to EU neighbouring countries	57	63	75	83	93	106	120	597

## 7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

### 7.1. Impact on human resources

Types of post	Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
	Number of permanent posts	Number of temporary posts		
Officials or temporary staff	HQ: 192 Del: 141		333	
Other human resources		<b>HQ:</b> END: AUX: INT: <u>Ex BA-lines :</u> ATA: <b><u>Delegations:</u></b> <u>Ex: BA-lines</u> ALAT/AL: Ind.Expert:	3 9 2 87 338 84	
Total			856	

## 7.2. Overall financial impact of human resources (2004 prices)

Type of human resources	Amount (€)	Method of calculation *
Officials+Temporary staff		
HQ	20 736 000	192x 108 000€
Delegation	27 376 278	141x 194.158€
<b><u>HQ:</u></b>		
END	133 632	3x 44 544€
AUX	510 840	9x 56 760€
INT	126 192	2x 63 096€
<u>Ex BA-lines</u>		
ATA	5 015 202	87 x57 646€
<b><u>Delegations:</u></b>		
<u>Ex BA-lines:</u>		
ALAT/AL	25 853 620	338x 76 490€
Individ. Experts:	15 540 000	84x 185 000€
Total	95 291 764	

## 7.3. Other administrative expenditure deriving from the action (2004 prices)

Budget line (number and heading)	Amount €	Method of calculation
<b>Overall allocation (Title A7)</b>		
A0701 – Missions	933.800	667 missions x 1.400 euro per mission
A07030 – Meetings	100.000	
A07031 – Compulsory committees <sup>1</sup>	500.000	100 meetings x 1.000 euro per meeting
A07032 – Non-compulsory committees <sup>1</sup>	0	
A07040 – Conferences	300.000	2x /month x 10 months = 20 meetings per year x 25.000 euro per meeting
A0705 – Studies and consultations	200.000	
Other expenditure (specify)	0	
<b>Information systems (A-5001/A-4300)</b>	200.000	
<b>Other expenditure - Part A (specify)</b>	0	
Total	2.233.800	

The amounts are total expenditure for twelve months.

<sup>1</sup> Specify the type of committee and the group to which it belongs.

(2004 prices)

I.	Annual total (7.2 + 7.3)	€	97 525 564
II.	Duration of action		7 years
III.	Total cost of action (I x II)	€	682 678 948

- The needs in human and administrative resources are covered within the budget allocated to the managing DG in the framework of the annual allocation procedure.
- The allocation of posts will depend on the internal organisation of the next Commission and on a possible reallocation of posts between the services following the new financial perspectives.

## 8. FOLLOW UP AND EVALUATION

### 8.1. Follow up arrangements

The Commission will monitor progress of its external co-operation on all levels, *input* (in particular financial flows (commitments, contracts and payments), *activities / outputs* (project and programme execution, internal monitoring carried out on the spot by Commission Delegations), *progress / outcome* (external Results-Oriented Monitoring - ROM<sup>20</sup>) and *impact* (Millennium Development Goals are jointly monitored with partners).

All countries and regional pluriannual indicative program will include the specific objectives and expected results for each area of co-operation, and a limited number of key outcome indicators in regard to economic and poverty situation. These indicators must relate to developments that are measurable in the short/medium term. If there is a Poverty Reduction Strategy Paper process under way, the indicators must correspond to those developed in that framework.

The programming of long-term external aid for partner countries and regions is carried out in the framework of the preparation of country and regional strategy papers (up to 7-years). These country strategies also include a work plan or national / regional indicative programme jointly agreed between the Community and partner country/region concerned.

Under the principle of rolling programming, a review process is foreseen including annual operational reviews, mid-term reviews, and ad-hoc reviews where necessary. These review mechanism provides the flexibility required to ensure that operations are kept constantly in line with changes occurring in the economic situation, priorities and objectives of the partner country/region.

Reviews take a special interest on progress achieved in terms of financial execution of aid, as well as in terms of results achieved and evolution of the context in term of poverty reduction,

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<sup>20</sup> The results-oriented monitoring system (ROM) allows a rapid appreciation of a project or programme's performance, as well as of its wider implications and provides the Commission with independent advice on its project portfolio. The system was initially developed and tested in 2000/2001 before expansion during 2002 to all regions of the Commission's external co-operation. Having one consistent approach ensures that the Commission has comparable data for all regions where it provides external assistance.

economic performance and supported sectors. Updated intervention frameworks and indicator tables on focal sectors are annexed to review documents in order to facilitate the assessment at the time of the review. In particular, mid-term reviews may lead to a change of strategy, as well as a change in the country/region allocation in the light of the current needs and performance.

The thematic strategy papers will include a list of indicators that will allow, on the basis of available information, to monitor the global situation in relation to the specific theme.

The annual Action Programmes will include information on the type of performance indicators that will have to be monitored when implementing the measures financed by the Commission.

Cross Border Co-operation programmes to be prepared by the partners for adoption by the Commission will devote particular attention to the definition of indicators at the level of the priorities and measures and the elaboration of the necessary institutional arrangements for monitoring.

## **8.2 Arrangements and schedule for the planned evaluation**

In application of current rules and in view of the vast scope of the activities foreseen, an evaluation system covering the different levels of intervention and types of instruments has been set up.

Notably, the financial regulation, as well as the internal control standards, calls for regular evaluation of all (sizable) activities. This is translated into the evaluation of single operations (e.g. development projects), of programmes (e.g. country strategies) and policy sectors or themes (e.g. transport or gender issues). Evaluations of are also necessary and ongoing of wider legal obligations such as the 3 Cs (Coherence, Complementarity, Coordination).

In practical terms, above mentioned obligations would amount to a yearly evaluation programme covering roughly the following: 30 country strategy evaluations (approximately 120 sizeable Country Strategy Papers covered over a 4 year cycle) , 4 evaluations of regional and sub regional strategies; 4 evaluations of themes and sectors and 4 joint evaluations. It is also estimated that about 300 projects and other operations have to be evaluated each year.<sup>21</sup>

These works will be complemented by relevant works on databases, meta-analyses, methodology and training.

## **9. ANTI-FRAUD MEASURES**

The protection of the Community's financial interests and the fight against fraud and irregularities form an integral part of this Regulation.

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<sup>21</sup> The evaluation programme mentioned in this paragraph covers all co-operation activities covered by the four external aid instruments: « instrument for pre-accession », « european neighbourhood and partnership instrument », stability instrument » and « economic co-operation and development instrument ». Human and financial resources necessary for the implementation of the programme are estimated at 72 man/year and 24,6 M€ per year.

Administrative monitoring of contracts and payments will be the responsibility of the EC Delegations in beneficiary countries.

Each of the operations financed under this regulation will be supervised at all stages in the project cycle through the delegations. Supervision will take account of contractual obligations as well as of the principles of cost/benefit analysis and sound financial management.

For Cross Border co-operation programmes operating under shared management the Member State where the joint managing authority is located is responsible for ensuring sound financial management and the legality and regularity of the transactions.

Moreover, any agreement or contract concluded pursuant to this Regulation shall expressly provide for monitoring of spending authorised under the projects/programmes and the proper implementation of activities as well as financial control by the Commission, including the European Anti-Fraud Office (OLAF), and audits by the Court of Auditors, if necessary on the spot. They shall authorise the Commission (OLAF) to carry out on-the-spot checks and inspections in accordance with 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 irregularities.

Particular attention will be paid to the nature of expenditure (eligibility of expenditure), to respect for budgets (actual expenditure) and to verify supporting information and relevant documentation (evidence of expenditure).