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Report evaluating the implementation of the financial instruments for external actions

Accompanying the
**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**
Mid-term review of the financial instruments for external actions

{COM(2009) 196}

1. DEVELOPMENT COOPERATION INSTRUMENT

In the new framework for planning and delivering assistance, Regulation (EC) No 1905/2006 establishes a financing instrument for development cooperation providing direct support for the Community's development cooperation policy. The primary and overarching objective of EU development cooperation is the eradication of poverty in the context of sustainable development, including pursuit of the Millennium Development Goals (MDGs) as stated in Article 2.1 of the regulation. The EU is determined to work to assist the achievement of these goals and the development objectives agreed at the major UN conferences and summits.

Development cooperation under the DCI is implemented through geographic and thematic programmes (including the "sui generis" programme related to the ACP sugar protocol countries).

1.1. Geographic programmes: Latin America, Asia, Central Asia, Middle East, South Africa

1.1.1 Delivery against the declared objectives

Geographic programmes should support the development of, and reinforce the cooperation with eligible countries and regions in Latin America, Asia, Central Asia, the Middle East and South Africa. The geographic programmes for DCI countries and regions have in general been operating smoothly and without major problems. They have allowed the EU to contribute to the DCI objectives and should contribute positively to the development of the countries and regions concerned. In the preparation and implementation of geographic strategy papers and multiannual indicative programmes, the principles of aid effectiveness, ownership, partnership, coordination, harmonisation, alignment with recipient country or regional systems and results-oriented approach were applied. The programming documents were also drafted taking in consideration the differentiated and specific conditions of countries and (sub)regions. Their implementation started in 2007 with the adoption of the first Annual Action Programmes.

In the case of **Latin America**, Country Strategy Papers (CSPs) for the 17 countries, three Regional Strategy Papers (RSPs) for Mercosur, the Andean Community and Central America, and one Regional Strategy Paper for Latin America were prepared and approved for the period 2007-2013. As specified in the DCI, Community assistance to Latin America supported actions with particular attention to the areas of cooperation specified in Article 6 — reflecting the specific situation in Latin America. In particular, the promotion of social cohesion, that is the fight against poverty, inequality and exclusion, is at the centre of the programming exercise as a focal sector for a large majority of National Indicative Programmes. Also, support to regional integration at sub-regional level is the main priority in the RSPs for Mercosur, the Andean Community and Central America, and strong emphasis has been put on support to higher education at the global regional level.

In the case of **Asia**, 18 Country Strategy Papers and one Regional Strategy Paper for Asia for the period 2007-2013, and their corresponding Multi-annual Indicative Programmes (MIPs) 2007-2010, were prepared in 2005-2006. In addition, under Article 23 of the DCI, three special measures not provided for in the strategy papers or multiannual indicative programmes were adopted for Sri Lanka, Indonesia and the Democratic People's Republic of Korea. As stated in the DCI, Community assistance to Asia is consistent with Article 5 with a special emphasis on a number of areas of cooperation mentioned in Article 7 reflecting the specific situation of Asia. In particular, MDGs in the field of health, including HIV/AIDS,

and education, *inter alia*, through policy dialogue for sectoral reform, are at the heart of the programming exercise as focal sectors for the majority of MIPs 2007-2010 (health: 15.5%; basic education: 18,5%); addressing governance issues in particular in fragile States is highly relevant for Afghanistan, Nepal, Philippines, and Sri Lanka; encouraging greater regional integration and cooperation is reflected in the majority of programming documents; contributing to the control of epidemics and zoonoses is one of the main priorities under the Regional Programming for Asia; promoting sustainable development in all its dimensions, with particular attention to the protection of forests and biodiversity is programmed for Bangladesh, Bhutan, China and under the Regional programming, and fighting against production, consumption and trafficking of drugs and against other trafficking concentrates mainly on Afghanistan.

Concerning **Central Asia**, Community assistance is embedded in one Regional Strategy Paper for 2007-2013 and a Multi-annual Indicative Programme for 2007-2010. The latter document identifies the specific focal sectors retained for the Central Asia regional cooperation programme and for each country in particular, with emphasis on a number of areas of cooperation mentioned in Article 7 reflecting the specific situation of Central Asia. The adoption by the European Council of a Strategy for a new enhanced partnership with Central Asia in June 2007 has given impetus to dialogue and reinforced cooperation with the five countries on major issues facing the region for poverty reduction, sustainable development and stability which had been at the heart of the programming exercise for 2007-2013 and can now be pursued with a higher level of political commitment and impact. The overriding priority given to poverty reduction was translated in the primacy of social sectors — social protection, health and education — and community based rural development in the assistance. Particular attention was also given to governance issues, notably public finance management and the rule of law, which reflect directly on government implementation of reform policies, and particularly on the impact and efficiency of Community assistance. Coordination with other donors, including through participation in drafting and follow up on Joint Country Strategies has also enabled to improve EU response and impact of assistance at country level.

In the DCI **Middle East** region (Iraq, Iran, Yemen), only Iraq and Yemen have so far benefitted from assistance; Iran is a potential beneficiary but has received no DCI geographical assistance since 2007. The unique instability of Iraq has necessitated an annualised approach using Special Measures under Article 23 DCI to enable the responsive deployment of reconstruction, rehabilitation and development assistance, as well as close coordination with humanitarian relief efforts. The high-risk environment, and consequent constraints on in-country project management, dictated that most DCI support until 2008 was delivered through the United Nations-World Bank multi-donor trust fund (IRFFI), to which the EU has been the largest donor. In future, as Community funding is delivered progressively through bilateral channels and programmed on a multiannual basis, it will be vital to maintain the high level of coordination that was built in the multi-donor trust fund.

The case of Yemen is less atypical, involving the preparation and implementation of a CSP with an unequivocal focus on the MDGs, notably in the areas of health, governance, food security and agriculture. This said, increasing potential for state fragility, as well as high exposure to food price increases, will almost certainly imply careful mid-term review of the CSP, to ensure that EU assistance to Yemen forms part of a coordinated and concerted effort to maintain stability as well as promote the development of the country. The DCI has, overall, provided a sound basis for much of the EU cooperation with these two countries. Financing from other instruments and thematic programmes (IfS, EIDHR, Food Security) has also

offered valuable complementary sources, for specific purposes. However, scope for certain cooperation activities in Iraq and Iran (such as energy cooperation, public diplomacy) which could be ineligible as ODA is being provided for in the legislative proposal for non-ODA cooperation.

The MDGs, and in particular poverty eradication, employment creation and basic services, constitute the bulk of the Commission's development cooperation in **South Africa**. Between 65 and 85% of the multiannual Indicative Programme over 2007-2010 is targeted towards employment creation and service delivery for social cohesion, including health and education programmes. So far, the instrument has enabled implementation of the main policy objectives, both in terms of poverty alleviation and reduction of inequalities in the country, as well as in terms of supporting the broader EU dialogue and cooperation with South Africa. Overall, dialogue with Parliament as foreseen in the instrument has been supportive of the Commission's objectives with respect to the implementation of development cooperation with South Africa. The programming allocates between 30-40% for capacity for service delivery and social cohesion. In addition, 5-20% of the envelope is earmarked for support in the area of governance, and 4-10% for regional and pan-African support. Up to 5% of the South Africa envelope is reserved for supporting policy dialogue and EU-SA cooperation in a wide range of areas like environmental policy, energy, trade-related issues, transport, etc. This is a relatively small proportion and is justified from the perspective of supporting the broader scope of EU-SA relations and of facilitating dialogue to ensure the full implementation of the Trade, Development and Cooperation Agreement (TDCA) with South Africa. All actions are supported from the perspective of contributing to poverty eradication, employment creation and sustainable development.

The **democratic scrutiny dialogue** with the European Parliament has been an innovative mechanism in the process of adopting the strategy documents. The Commission entered into a dialogue with the Parliament as agreed during the negotiations leading to the adoption of the instruments and reflected in declarations No 4 and 5 attached to the Interinstitutional Agreement on budgetary discipline and sound financial management. The democratic scrutiny dialogue provides for the draft thematic, regional, and country strategy papers of co-decided instruments to be sent to the Parliament and for the Commission to take its comments into account. When examining the draft strategy papers, the Parliament expressed concern about some of the programmed measures which it considered not to be sufficiently geared towards the eradication of poverty and the Millennium Development Goals. The Parliament adopted four resolutions¹ under its formal right of scrutiny (Article 8 of the comitology decision²)

¹ Resolution of 15 February 2007 on the draft Commission decisions establishing Country Strategy Papers and Indicative Programmes for Malaysia, Brazil and Pakistan (OJ C 287 E, 29.11.2007, p. 507).

Resolution of 7 June 2007 on the draft Commission decision establishing Regional Strategy Papers and Regional Indicative Programmes for Mercosur and Latin America (OJ C 125 E, 22.5.2008, p. 213).

Resolution of 21 June 2007 on the draft Commission decision establishing a Regional Strategy Document 2007-2013 and a Multiannual Indicative Programme for Asia (OJ C 146 E, 12.6.2008, p. 337).

Resolution of 25 October 2007 on the draft Commission decision establishing a Special Measure 2007 for Iraq (OJ C 263 E, 16.10.2008, p. 624).

² Council Decision 1999/468/EC (OJ L 184, 17.7.1999, p. 23), as last amended by Council Decision 2006/512/EC.

pursuant to Rule 81 of its Rules of Procedure, signalling that, in its view, the Commission had exceeded its implementing powers and calling for the withdrawal of the measures.

While the Commission was of the view that virtually all the activities concerned were fully covered by the DCI, it nevertheless responded to the EP's concerns by amending its approach and withdrawing some contested activities from indicative programmes. This was the case for Brazil (where the proposal for a Euro-Centre was modified); for Mercosur (where the film industry programme was put on hold and will be financed under a preparatory action); for Malaysia (where the Commission accepted the EP's points on the EU visibility programme); and for the regional strategy on Asia (where the component 'support to research institutes' was removed and will be funded under separate preparatory actions).

In addition, with the rise of emerging economies, in particular China, India and Brazil, and the intensification of EU relations with several dynamic developing country partners, the possibility of funding measures beyond Official Development Assistance (ODA) in developing countries is becoming increasingly important. In that context, the budget authority launched four preparatory actions aimed at supporting measures which it considered could not be financed under the DCI (e.g. for business centres in China and India, and for 'sectors capable of developing independently' in Asia and Latin America). By definition, Preparatory Actions are meant to provide for temporary support and are supposed to lead to legislative proposals within three years. Therefore, current preparatory actions are building the basis for a longer-term support to finance certain activities in the EU's interest.

The dialogue with the Parliament also gave the opportunity to exchanges views on higher education. The objective in this sector is to build upon the success of Erasmus Mundus (EM), adapting it in the context of development cooperation — through the EM External Cooperation Window (EMEWC) set up by the Commission. The actions include the financing of fellowships for Latin American, Asian, and South-African students and academics coming to the EU, and also the sending of EU students (and academic staff, including researchers, to reinforce local capacity building in the sector). The Parliament has objected to using the DCI for financing the European mobility component on the grounds that it does not fulfil the criteria for ODA eligibility³. Following the EP's request, the Commission agreed to exclude from the DCI measures to send EU students as from 2010 onwards, and to find a legislative solution under the mid-term review of the instruments.

In conclusion, the current DCI Regulation constrains the scope of the bilateral geographical cooperation with eligible countries by requiring all measures financed to fulfil the OECD/DAC criteria for Official Development Assistance. Legislative follow-up to the Preparatory Actions is proposed to fill this gap in order to have an enabling instrument to cover activities, in particular for emerging countries, which do not meet ODA criteria.

1.1.2 Implementation issues

The DCI regulation presents a number of advantages in relation to the previous regulation (ALA). It introduces new methods of implementation facilitating joint financing arrangements with other development partners such as the pooling of funds through the joint co-financing mechanism (DCI Article 27(2)). It is therefore more adapted to the efforts of donor harmonisation and alignment to national procedures and strengthens the ownership of the programmes by the recipient countries. Moreover, the DCI allows faster and more relevant

³ Resolution of 9 July 2008 on the draft Commission decisions establishing Annual Action Programmes for Brazil for 2008 and for Argentina for 2008 (Texts adopted, P6-TA(2008)0338).

preparation of programmes, as identification formulation and implementation rely more and more on the most experienced donor in the beneficiary country or region. It is also more effective because the DCI allows pooling of funds (i.e. joint co-financing) around a common objective defined by the recipient countries and donors.

This aspect is strengthened by the introduction of annual action programmes, which ensure better consistency between the programmes prepared by the Commission for a given year and the overall framework of the country strategies formalised by the strategy papers and the multiannual programming. The Commission also makes constant efforts to improve the availability of information about the implementation and evaluation of its programmes in particular when they are implemented through budget support and/or trust funds.

Implementation of programmes and projects started relatively recently (end of 2007). The main difficulties encountered are linked to the payment of taxes, duties and charges. There is a need for a technical amendment to harmonise Article 25(2) of the DCI Regulation with other instruments so as to allow payment of taxes, duties and charges in exceptional cases, notably where the goal of the relevant action can only be attained if it is financed in full by Community funds. The same technical problem appears with the EIDHR instrument working mainly with NGOs.

The harmonisation of such flexibility with the wording “in principle” will be framed through internal guidelines for all instruments since the exception to the principle has to be granted on a case by case basis giving duly justified reasons.

1.1.3 Delivery against the commitments undertaken

The adoption of the DCI Regulation was accompanied by a Commission Declaration concerning Article 5 of the DCI (geographic programmes) where the Commission reaffirms that the eradication of poverty and the pursuit of the Millennium Development Goals (MDGs) are at the core of the primary objectives of its development assistance.

In line with MDGs, the objectives and general principles of the DCI are to implement Geographic and Thematic programmes aiming at strengthening human development (notably health and education), social cohesion and employment, governance and democracy, trade and regional integration, environment and sustainable development of natural resources and contributing to the stabilisation of post-crisis situation and fragile states. In 2002 the Commission reached an understanding with the European Parliament to report on a benchmark of 35% of geographic cooperation with developing countries under the budget being allocated to social infrastructure and services, including macroeconomic assistance with social sector conditionality. The Commission has further committed to prioritise basic health and education, and social cohesion as a whole in its programming, and to include an MDG profile in the programming documents. The 35% benchmark has been superseded but the Commission’s commitment is to continue reporting annually on actual spending in these sectors. A new commitment is “*to endeavour to ensure that a benchmark of 20% of its allocated assistance under country programmes is dedicated, by the year 2009, to basic and secondary education and basic health, through project, programme or budget support linked to these sectors, taking an average across all geographical areas and recognising that a degree of flexibility must be the norm, such as exceptional assistance*”. The Commission took this element into account in its dialogue with recipient countries/regions and difficulties are not foreseen to reach that target. Assistance to each and every country will not necessarily be able to reach this benchmark — because of ownership and donor coordination as set out in the “European Consensus on Development” — but this goal will be achieved on average across all geographical areas as agreed. The Commission has also included in its 2008 Annual

Report on EC External Assistance the follow up of the 20% benchmark. Aid directly targeting basic health and basic and secondary education sectors reached some 17% of total commitments in 2007 under the relevant geographical programmes (Asia, Latin America and South Africa), even without including general budget support linked to these sectors. The Commission is thus well on track to reach, by 2009, the 20% goal agreed with the adoption of the DCI Regulation for assistance to these sectors under the DCI country programmes.

However, such financial input benchmarking is not the most effective approach to aid assessment. In line with the international commitments on aid effectiveness, the Commission has increasingly shifted attention from input-based approaches to management for results, thereby promoting division of labour and budget support. As a result, it would be more effective to replace such benchmarking by a more up-to-date systematic follow up of the social sectors, so as to ensure that health and basic and secondary education are priority sectors in government development plans and that from the donor perspective these sectors are indeed not orphan aid sectors.

1.1.4 Adequacy of the financial envelopes and financial provisions

The programming 2007-2009 has been established in line with the financial envelopes allocated to the respective regions (Annex IV of the DCI Regulation). There are no specific difficulties regarding these envelopes, so there is no need to change the indicative financial allocations for the period 2007-2013. The budget authority has increased the Latin America, Asia, Central Asia and Middle East (Iraq, Iran, Yemen) envelopes by respectively EUR 14 million, EUR 27 million, EUR 4 million, and EUR 15 million over 2007-2008 compared to the legislative financial statement reflecting the initial programming of the indicative amounts within the reference amount of the Regulation. The programmed profile 2009-2013 of the Central Asia envelope has been adjusted further to the new enhanced partnership with Central Asia adopted in June 2007 by frontloading part of the envelope over 2009-2010 without modifying the overall indicative allocation.

The DCI Middle East (Iraq, Iran, Yemen) allocation was programmed to decline in size significantly over the period (from EUR 109 millions in 2007 to less than EUR 60 millions from 2010 onwards). This decline assumed that the volume of aid to Iraq would decrease dramatically according to progress in the situation of the country, that the volume for Iran would remain negligible in view of the political circumstances, and that the volume for Yemen should remain steady. The need to continue with an — albeit much smaller — support programme for Iraq is evident, and the focus will shift away from reconstruction towards much less capital-intensive capacity building. The situation in Yemen, however, has deteriorated to the point where weak governance and increasing poverty levels have created a situation of unrest and potential for state fragility to which the EU is committed to responding with the full range of instruments at its disposal, from crisis response to longer term development tools. The mid-term review of the Yemen Country Strategy will reflect these developments.

1.2 Thematic programmes: Migration and asylum, Investing in people, Environment and sustainable management of natural resources including energy, Non-state actors and local authorities in development, Food security, ACP sugar protocol countries

The implementation of the thematic programmes and projects started relatively recently. No major difficulties have been encountered.

1.2.1 Non-state actors and local authorities in development (NSA)

The objective of this thematic programme is to co-finance initiatives proposed or carried out by civil society organisations and local authorities originating in the Community and partner countries in the area of development. The programme must be implemented consistent with the objective of the DCI and strengthen the capacity of non-state actors and local authorities in the policy making process, so as to:

- Promote an inclusive and empowered civil society.
- Increase awareness of “development issues” among European citizens.
- Improve networking and communication between European NSA and LA associations, and of these networks with European institutions.

The multiannual strategy was adopted in July 2007. No issues were raised during the democratic scrutiny and comitology process. The strategy has been implemented through annual action programmes (AAP). The approval of the first Annual Action Programme by the Member States, while completely in line with the multiannual strategy adopted previously by them, has revealed to be difficult. The main problem lied in the definition of priority countries, with Member States seeking to include countries that were not considered by the Commission as satisfying the selection criteria defined in the multiannual strategy and guided by the principles of subsidiarity and complementarity. In line with the strategy paper 2007-2010, in-country interventions are targeted on cases which demonstrate a specific added-value to the different geographic programmes (EDF, DCI geographic programmes, ENPI) as follows:

- Country situations which are not conducive to ensuring NSA involvement such as: difficult partnerships (suspended NIP, no government commitment to basic development principles, no status for NSAs), unstable situations, conflicts, poor governance, etc.
- Populations out of reach of mainstream services and resources, excluded from policy making processes.
- Multi-country and/or multi-regional interventions, networking and coordination activities ensured more efficiently through the thematic programme than through geographic programmes.

The definition of these selection criteria may be reviewed in the mid-term review of the strategy paper for the next programming period (2011-2013) in order to make them more tangible.

The award of projects selected under the calls for proposals covered by the 2007 Annual Action Programme was completed at the end of 2008. In support of actions in developing countries (objective 1), the Commission selected 385 projects proposed by non-state actors from the EU and partner countries and 32 projects proposed by local authorities from the EU and partner countries for a total contribution of EUR 171.7 million, comprising EUR 106.8 million for projects selected under local calls for proposals managed by EC Delegations in partner countries and EUR 64.9 million for projects selected under centralised calls for proposals managed by EuropeAid headquarters. Activities raising the awareness of the European public (objective 2) were supported for a total contribution of EUR 27.8 million supporting 47 projects (out of which 41 proposed by non-state actors for EUR 25.1 million and 6 proposed by local authorities for EUR 2.7 million). Activities fostering coordination and networking of non-state actors and local authorities (objective 3) working on development were also supported for a total contribution of EUR 3.9 million supporting 8

projects (6 proposed by non-state actors for EUR 3.3 million and 2 proposed by local authorities totalling EUR 0.6 million).

As regards the 2008 annual action programme, 5 centralised calls for proposals were launched in December 2008 and another 71 have been published or are to be published by EC Delegations. The process for the selection of proposals related to these calls is still ongoing and the results should be known before the end of 2009. In principle, the centralised calls for proposals published in December 2008 will cover budget years 2008 and 2009.

The Commission has started compiling data from 2007 implementation, but it is too early to have practical feedback on outputs and impact of this programme.

The programmed amounts are in line with the envelope foreseen in the Regulation. The current outlook for the period 2010-2013 is that this situation should be maintained.

1.2.2 Migration and asylum

The thematic programme on Migration and Asylum is fulfilling its fundamental objective of assisting third countries in their efforts to manage better their migration flows and asylum issues. The coverage of this programme, which encourages the promotion of synergies between migration and development, support for legal labour migration, discouragement and control of illegal migration, the protection of migrants and successful management of asylum issues has offered the comprehensiveness and flexibility to tackle emerging routes and to accommodate new initiatives.

The opportunity to implement the funding received through both annual Calls for Proposals and, when needed, targeted projects with international organisation has added needed flexibility to take advantage of particular types of expertise needed to address particular challenges and specific situations. Support, for example, has been made available rapidly through targeted actions in response to the negotiation of mobility partnerships with third countries (e.g. Cape Verde, Moldova, Libya).

Of the EUR 384 million envelope for this programme under the DCI Regulation for the period 2007-13, EUR 205 million has been programmed under the 2007-10 Strategy Paper adopted in 2007. These funds have been programmed according to the main migratory routes as follows: Southern Route — EUR 70 million; Eastern Route — EUR 50 million; Middle East and Gulf — EUR 5 million; South and East Asia and the Pacific — EUR 16 million; Latin America and the Caribbean — EUR 16 million; Global and multi-regional actions — EUR 28 million; Special measures (Art. 23 of DCI Regulation) — EUR 20 million. The 2009 Annual Action Programme will be adopted in mid-May and €48.36 million is programmed. In addition, €3 million is planned to be committed at a later stage this year for a project aiming at strengthening African countries and regional economic communities (REC) capacities to cooperate on migration issues and actively monitor the implementation of the Africa and EU partnership on migration, mobility and employment.

Due to the very nature of the programme, which includes among its objectives asylum and international protection as well as curbing illegal migration, some activities cannot be classified as Official Development Assistance (ODA). This was specifically foreseen in the Regulation and reflected in the flexibility granted under Article 2(4) for thematic programmes.

The European Council of December 2005 established that up to 3% of the funding for our neighbours should be devoted to areas concerning or related to migration. Amounts of EUR 48 million and EUR 52 million were allocated respectively in 2007 and 2008 to the DCI migration thematic programme for a wide geographical area, including ENPI countries. Under

the DCI migration 2007 and 2008 annual programmes, amounts of EUR 19.6 million were allocated to the Eastern migratory route and EUR 27.6 million to the South migratory route that comprises ENPI and ACP countries. Over the period 2007-2010 some 50% of the global allocation provided under the migration budget line is set to benefit ENPI countries. This funding, together with an estimated amount of EUR 90 million affected to migration-related measures under the ENPI countries, multi-country, and CBC programmes, will contribute to attaining the 3% objective.

1.2.3 Environment and sustainable management of natural resources (ENRTP)

The objectives with respect to the Environment Thematic Programme have been flexible enough to accommodate three major new initiatives: Global Energy Efficiency and Renewable Energy (GEEREF), Global Climate Change Alliance (GCCA) and Technology Transfer for Clean Coal (TTCC). There is therefore no need to adjust or modify the objectives. The ENRTP includes also small allocations for facilitating policy dialogue, coordination, analysis and consultation processes of the EU Water Initiative and EU Energy Initiative at global, interregional, subregional and regional levels for which the main funding is made available from the geographical instruments.

The ENRTP can be considered enabling in the sense that it is a helpful instrument to implement certain policies, such as adaptation to climate change, promoting energy efficiency, FLEGT (Forest Law Enforcement, Governance, and Trade), and it can play a catalytic role in making additional funding available (also from other donors) for these policy objectives. However, some areas like biodiversity and desertification require special attention⁴. The objectives of the ENRTP remain very relevant for working towards achieving MDG No 7.

There are some actions ineligible for Official Development Assistance (ODA), but these are relatively limited and can be accommodated within the flexibility granted under Article 2(4) for thematic programmes. Most of the actions under the ENRTP, including the contributions for GEEREF, are in fact ODA eligible.

The multiannual strategy was adopted in June 2007. Through comitology and democratic scrutiny procedures, both Council and Parliament have argued for additional funding for the ENRTP. Substantial additional funding has been made available at the initiative of the Commission for the major initiatives (GEEREF, GCCA and Technology Transfer for Clean Coal) to respond to the need to deal with climate change adaptation. The main deviation from the legislative financial allocation (+EUR 176 million) stems from the decisions in the APS 2008 and APS 2009 to allocate more resources for renewable energies and climate change and from the final 2009 Budget. The 2008 APS decision added EUR 50 million for climate change (GCCA) over the period 2008-2010 and EUR 28.5 million for GEEREF over the period 2008-2009. The 2009 APS decision added a further EUR 10 million for climate change (GCCA) and EUR 60 million for technology transfer over the period 2009-2013. Some EUR 10 million was added during the budget procedures, and the final 2009 Budget was adopted with a further reinforcement by the Budget Authority of EUR 17 million.

The Annual Action Programmes (AAPs) implementing the ENRTP in 2007 and 2008 were adopted by the Commission on 3/12/2007 and 7/8/2008 respectively. The adoption of the

⁴ The EU is not on track to achieve its target of reducing biodiversity loss by 2010 according to the review of the EU biodiversity strategy, and desertification is a priority area of cooperation with the AU which currently receives limited funding. It should be noted also that neither is there enough funding from other sources for these policy objectives.

2009 AAP is expected in April 2009. To date, almost 120 contracts have been concluded under the two first AAPs, for a total EC contribution of more than EUR 150 million.

The implementation of the programme with multiple priorities and sub-priorities is somewhat challenging. Pooling resources and running calls for proposals that draw on two-year rather than one-year financing has been identified as a first solution, which has been applied for the 2007-2008 AAP call and will be applied for the 2009-2010 AAP call. The next multiannual programming should avoid being too prescriptive as regards yearly allocations and implementation modalities, which should be left open for discussion in the context of the annual programming. This would allow for as much flexibility for implementation and resource efficiency as possible.

It should be mentioned that the ENRTP has not been designed to mobilise resources on a significant scale to address environmental crisis situations. On the other hand, in future years, an increased focus is necessary for policy objectives like biodiversity and the fight against desertification.

1.2.4 Accompanying Measures for Sugar Protocol countries (AMSP)

The objective of supporting the adjustment processes of the Sugar Protocol (SP) countries following the reform of the Common Market Organisation (CMO) for sugar in 2006 remains valid. Given the different situations and prospects in SP countries, their adjustment strategies differ. The wide scope of the accompanying measures for the Sugar Protocol (AMSP), which encompasses competitiveness improvement of the sugar sector, diversification and addressing broader impacts⁵, has allowed eligible countries to combine and integrate different objectives into their individual national strategies. The AMSP are well designed to meet differentiated approaches and this flexibility needs to be maintained. Nevertheless, given the political sensitivity of a restructuring reform of the sugar sector, some country strategies may need to be revised in order to guarantee their pertinence and viability. The AMSP will undergo a mid-term review of the strategies in order to ensure this.

Dialogue on Multi-Annual Adaptation Strategies and Multi-Annual Indicative Programmes (MIPs) with Council and Parliament has generally worked well.

The “sui generis” nature of the AMSP in the DCI is an advantage as it allows for flexibility in terms of implementation modalities. Nevertheless, the required annual programming and administrative procedures are fairly inflexible and can lead to tensions and delays when political considerations take precedence. Procedures are relatively heavy (the DCI requires individual country adaptation strategies, multiannual programming and annual action programmes for each of the 18 countries), leading to certain delays and late signing of financing agreements in some cases. As a result, although all the multiannual programming has been adopted, implementation in some countries has only started recently and measurable results are therefore not yet visible.

Considering the importance of AMSP financing in several eligible countries⁶, full coherence with other cooperation and development funds (e.g. EDF) is necessary. Continued coherence

⁵ Article 17(1) of the DCI: (a) enhancing the competitiveness of the sugar and cane sector, where this is a sustainable process, taking into account the situation of the different stakeholders in the chain; (b) promoting the economic diversification of sugar-dependent areas; (c) addressing broader impacts generated by the adaptation process, possibly related, but not restricted, to employment and social services, land use and environmental restoration, the energy sector, research and innovation and macroeconomic stability.

⁶ In some countries the AMSP funds are a more important source of cooperation finance than the EDF.

will be ensured through the mid-term review of the strategies and new programming for 2011-13. As a basis for this review, an external assessment of the AMSP will be carried out in 2009.

AMSP is not suited as an instrument to respond to a crisis situation, but forms a temporary structural cooperation approach with long-term objectives to assist the adjustment of an economic sector to changing market circumstances. As such, the legislative indicative allocation has been respected in the financial programming and is deemed adequate.

1.2.5 Food security (FSTP)

The objective and scope of the Food Security Thematic Programme are meant to address the main food security issues. The programme is designed to be complementary with other instruments and works at the thematic, continental, and global level. Consequently, global and continental mechanisms and partnerships, the UN and other international organisations, and international civil society organisations and networks are the main implementing partners, normally in co-financing modality.

The multiannual strategy was adopted in April 2007. No major issues have been raised during the programming phase in the dialogue with the Council and Parliament. Special attention has been given to maintaining the thematic focus of this instrument to fully preserve its comparative advantage. Complementarity with geographic instruments requires awareness on the part of Delegations and Geographic Desks of the nature, strategy, objectives, and expected results of the thematic programme, and consequently more active involvement in its programming is necessary to avoid overlapping with geographical instruments. This risk does not depend on the instrument itself, but on its implementation, in particular at the level of the formulation of the annual action plans. This implies a strong effort in coordination among the different services involved in the preparation of those annual programmes, and can sometimes lead to delays in launching the procedure for its adoption in time.

The mid-term review of the strategy will be the opportunity to check alignment with the recent adoption of the Food Facility⁷ and it will also serve the purpose of evaluating whether the basic aspects which are key to food security such as nutrition, access to food and availability of food (through production, markets) and price stability are sufficiently considered in the current design of the programme or whether they should be further mainstreamed in its second phase of programming for 2010-2013.

The mid-term review will also offer the opportunity of assessing the value added and complementarity of the actions launched at continental and regional level as well as their contribution to food security and to the global food security agenda, including the EU's commitment to the Food Aid Convention. The Food Facility has triggered additional action in 50 countries in the short/medium term in the area of Food Security. The Food Facility Regulation requires that complementarity with existing instruments is ensured, including with the FSTP. This has proved to be a challenge when (re)programming EUR 50 million of the FSTP AAP 2008 as a first measure to address the Food Prices crisis, with actions that are sometimes of a similar nature to those financed under the Facility. As the prices are expected to remain high in the next years, the needs of those highly insecure and fragile countries will be maintained or even increased by the additional impact of the financial and economic crisis.

In some cases there is a need to look at issues cutting across more thematic programmes (e.g. the case of biofuels, which cut across Food Security and Environment). Programmes need to

⁷ Regulation No 1337/2008 of 16 December 2008 (OJ L 354/62 of 31.12.2008).

have flexibility in allocation to handle these situations (e.g. joint programming on specific themes). This will be taken into account also in the next programming and strategy review.

The implementation of the programme with multiple priorities and sub-priorities is somewhat challenging. Pooling resources and running calls for proposals that draw on two-year rather than one-year financing has been identified as a first solution

The next multiannual programming should avoid being too prescriptive as regards yearly allocations and implementation modalities, which should be left open for discussion in the context of the annual programming. This would allow for as much flexibility for implementation and resource efficiency as possible.

As regards the financial envelope, the EUR 1.0 billion made available under the new Food Facility has provided additional funds to address food security at country level in the short to medium term (2008-2010). As a result the envelope is currently programmed up to 2013 according to the legislative indicative allocation.

1.2.6 Investing in People (IIP)

The thematic programme “Investing in People” pursues a broad approach to development, poverty reduction and social cohesion. Driven by the ambition to help the EC’s partner countries to achieve the Millennium Development Goals (MDGs), the programme supports action under four main pillars: (1) good health for all, (2) education, knowledge and skills, (3) gender equality and (4) other aspects of human and social development (employment and social cohesion, children, youth and culture).

Under the **health** pillar, the implementation of the thematic programme has been focused on the human resources crisis in health-care systems; main poverty-related diseases (HIV/AIDS, malaria and tuberculosis); neglected or emerging diseases; access to global goods; and improvement of sexual and reproductive health and rights.

In the area of **education, knowledge and skills**, the main focus has been on promotion of universal access to quality primary education; strengthening of the quality of education and improvement in access to vocational and skills training.

The **gender equality** pillar has focused the empowerment of women, the improvement of literacy among adult women as well as capacity building of civil society organisations, including specifically in the ENPI countries. Addressing gender concerns and issues has also been part of all the other components of the programme. In terms of implementation, the limited absorption capacity of civil society in ENPI countries has been emphasised by the Commission services both at Headquarters and in Delegations.

Under the **other aspects of human and social development**, the implementation of the programme has been focusing on advancement of employment, decent work and social cohesion in the EC’s partner countries; strengthening of children’s rights and participation in development; and support for activities to protect and promote cultural diversity.

In terms of financing, the implementation has been guided by the multiannual strategy which indicates that 55% of the total envelope of EUR 1.060 billion available in 2007-2013 should be allocated to the area of health, 12% to education, 5% to gender equality, 21% to other aspects of human and social development, and the rest to contingency.

The multiannual strategy was adopted in May 2007. No critical issues were raised during the democratic scrutiny and comitology process. There have been no significant difficulties in the implementation of the programme. Annual Action Programmes (AAPs) were adopted in December 2007, August 2008 and the 2009 AAP is foreseen to be adopted in early May 2009,

thus catching up delays, due to late approval of the strategy, and speeding up implementation. The programme has been implemented through calls for proposals and direct agreements with international or other organisations. In 2008 and 2009 calls for proposals represented respectively 60% and 85% of the yearly budgets (excluding the contribution to the Global Health Fund). Calls for proposals enable the programme to strengthen civil society capacity and build on local expertise so as to raise awareness on human and social issues, develop methodologies and innovative projects, promote stakeholder dialogue and partnerships and pool knowledge and experience, thus complementing what is done at the bilateral level with governments. On the other hand, direct agreements with international or other organisations form part of the strategic added value of the thematic programme, as a unique way to support major international programmes and build joint initiatives so as to address policy issues and develop appropriate response at a global level.

Four calls for proposals were launched between 2007 and 2008, and 11 more calls will be launched during 2009. The implementation of the programme with multiple themes, objectives and calls is a challenge. The lessons learned in implementation so far show that resources available for some objectives on annual basis are often too low to be able to finance a critical mass of proposals. Pooling resources and running calls for proposals that draw on multi-year rather than one-year financing has been identified as a solution and has been applied for some 2007-2008 AAP calls and will be applied for most of 2009-2010 AAP calls.

In order to allow for efficient and most effective use of resources it is therefore advisable that the next multiannual programming does not pre-determine in which year a specific objective should be implemented and leaves the decision concerning the sequencing of implementation to the annual programming process. Likewise, the use of implementation modalities best suited to achieve individual objectives should be left open for discussion in the context of the annual programming.

1.3 Conclusion on the DCI Regulation

As regards the scope and objectives, the DCI regulation has proven to be an instrument able to respond to the objectives set in terms of coherence, flexibility, and effectiveness. The first wave of strategy papers and the first three years of AAPs have been established on the basis of donor coordination, dialogue with partner countries and participation by civil society. Besides the need to cover non-ODA activities under another legislative instrument, no major issues have emerged — except the need to align the flexibility on tax and duties with the other instruments — and it is expected that implementation will continue smoothly.

As regards the financial envelope, based on the final budgets 2007 and 2008, and the 2009 Budget — that is the first 3 years — the financial allocation has exceeded the reference amount of EUR 16 897 million by EUR 239 million, i.e. by + 1.4%. Most of this deviation stems from the environment and energy thematic programme (+ EUR 176 million) with a +22% deviation as regards the sub-allocated envelope to tackle international challenges linked to climate change. Much of the rest of the reinforcements was allocated to the geographical programmes by the Budget Authority (+ EUR 60 million). The needs for the food security programme will have to be closely monitored as regards food price increases and/or volatility. The evolution and the impact of the food facility Regulation will be also monitored. There is no need to modify the DCI reference amount taking into account the 5% flexibility foreseen in the Interinstitutional Agreement.

Further to this review of the DCI, it is proposed:

1) to give a legislative follow-up to the Preparatory Actions for non-ODA activities in developing countries falling under the DCI Regulation.

2) to proceed with a technical amendment of the DCI Regulation to harmonise Article 25(2) on taxes and duties with the other instruments in order to allow in exceptional and duly justified cases the payment of taxes and duties as follows: “*Community assistance shall, in principle, not be used for paying taxes, duties or charges in beneficiary countries.*”

2. EUROPEAN NEIGHBOURHOOD AND PARTNERSHIP INSTRUMENT (ENPI)

The ENPI aims specifically at developing an area of prosperity and friendly neighbourliness involving the European Union and seventeen⁸ neighbouring partner countries. Cooperation under the ENPI goes beyond promoting sustainable development and economic growth. It involves substantial support for measures aimed at a progressive economic integration with the EU, deeper political cooperation, involving approximation to EU policies and legislation, institution building, participation in Community programmes and agencies, inter-connections and development of common infrastructure.

2.1 Delivery against the declared objectives

The ENPI has been conceived as a “policy driven” financial instrument that operates in the framework of the existing bilateral agreements between the EU and its neighbouring countries. It has been specifically designed to support the implementation of the European Neighbourhood Policy (ENP) and in particular of the bilateral ENP Action Plans concluded by the EU and twelve partner countries⁹. For Russia, our cooperation takes place in the context of the EU-Russia “Strategic Partnership” and is aiming to support the implementation of the road-maps for the four common spaces. The instrument also supports complementary regional initiatives, such as the Union for the Mediterranean, the Black Sea synergy, and the Eastern Partnership.

Country Strategy Papers (CSPs) covering the period 2007-13 accompanied by indicative programmes for the period 2007-10 have been adopted for 15 out of 17 countries. No strategy papers have been adopted for Libya, because of the absence of a contractual relation, or for the Occupied Palestinian Territory, because of the protracted crisis. Four other Strategy Papers and Indicative programmes were adopted covering Regional Cooperation in the East, Regional Cooperation in the Mediterranean, Inter-regional activities and the Cross-Border Cooperation component. In 2009-10, these Strategy Papers will undergo a mid-term review, as foreseen in the Regulation, and new indicative programmes covering the period 2011-2013 will be adopted.

These programming documents drafted on the basis of the ENPI Regulation are geared towards supporting the implementation of ENP action plans. Their scope and budget reflect the breadth and ambition of the partnership between the EU and the country concerned. To that effect, all the Strategy Papers and Multi-annual Indicative Programmes (MIPs) include priorities and measures addressing, depending on the specific country situations, democratic and economic governance, regulatory reform and administrative capacity building. In

⁸ 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 and Ukraine.

⁹ Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, Palestinian Authority of the West Bank and Gaza Strip, Tunisia and Ukraine.

countries without an agreed ENP Action Plan (e.g. Algeria, Belarus, Libya, Syria), the ENPI framework has been flexible enough to allow cooperation to be pursued on the basis of EU objectives.

Through its multi-country programmes, the ENPI has been able to finance flagship initiatives such as university cooperation (TEMPUS), student exchanges (Erasmus Mundus), short-term expertise from Member States' administrations (TAIEX), and medium-term public expertise from peer practitioners (SIGMA), and a facility to foster investment (the Neighbourhood Investment Facility) has been created. In addition, the regional dimension of relations with neighbouring countries has been addressed through dedicated programmes (such as the one in support of the Euro-Mediterranean Partnership) or in the context of existing programmes (Black Sea Synergy, Eastern partnership). The ENPI has also been an important element of our cooperation with Russia which benefits, inter alia, from TEMPUS, Erasmus Mundus and TAIEX.

A specific and innovative feature of the instrument is its cross-border cooperation component. This component combines objectives deriving from external policy and from economic and social cohesion and brings a radical simplification in procedures and substantial gains in efficiency. It operates based on principles such as multiannual programming, shared management, partnership and co-financing. It draws on resources from ENPI and from the European Regional Development Fund.

ENPI Cross-border Cooperation (CBC) around the Mediterranean Sea basin

The Mediterranean Sea Basin programme was one of the first CBC programmes to be adopted by the Commission (in August 2008) and the first to organise a Joint Monitoring Committee meeting in November 2008. The programme has been allocated EUR 173.6 million and all NUTS II regions (and their equivalents in partner countries) located on the coasts of the Mediterranean Basin are eligible. All countries around the Mediterranean Sea are invited to take part in the programme and the vast majority of them are active in it. The participants jointly identified and agreed 4 programme priorities: promotion of socio-economic development and enhancement of eligible territories, promotion of environmental sustainability at the sea basin level, promotion of better conditions and modalities for ensuring the mobility of persons, goods and capital in the region and promotion of cultural dialogue and local governance. All priorities are broken down into more detailed measures.

Following the second JMC meeting in January 2009, the programme is currently finalising the application pack for its first call for proposals in March 2009. The call will be launched for a value of EUR 32 million and will concern standard projects in the four programme priorities. The evaluation of the standard projects and first signature of contacts will take place in the second half of 2009. Another call concerning larger strategic projects is scheduled for June.

2.2 Implementation issues

The ENPI has at its disposal a much broader range of instruments than its predecessors MEDA and TACIS and this allows for a more effective and efficient delivery of assistance.

Through mechanisms such as twinning and TAIEX, the Community makes available EU public sector expertise for institution building to partner countries engaged in legislative approximation and regulatory alignment. Sector and Budget Support Operations are used to promote the reform agenda agreed in the context of the ENP Action Plans and the monitoring of such operations is an important occasion for a deeper policy dialogue with partner countries.

Twinning, TAIEX and SIGMA in neighbouring countries

Institution building in neighbouring countries is provided mainly through three instruments: TAIEX, providing for short-term expertise from Member States Administration;

SIGMA, providing for medium-term public expertise from peer practitioners; and

Institutional twinning, providing for long-term “peer to peer” partnerships between a Public Administration from a Member State and from a partner country.

These instruments are very much welcomed by the ENPI countries.

The 100th ENP Institutional Twinning project will be launched in 2009 with a total pipeline under identification of around 180 partnerships. This shows that Institutional Twinning has been set as a priority by ENP countries in the framework of their cooperation with the EU. TAIEX operations have grown in number since their introduction in 2006 and the instrument is used now by all ENPI countries (except for Libya and Syria) having reached a rate of around 4 000 participants. The TAIEX instrument has proved to be useful to pave the way for the introduction of the Institutional Twinning instrument as well as SIGMA operations. The introduction of SIGMA will allow human resources to be strengthened within the public administrations and thus pave the way for Institutional Twinning projects more appropriately designed in terms of ownership and sustainability, reinforcing economic integration and political cooperation between the EU and ENPI countries.

A successful Sector Budget Support operation — The programme for consolidation and deepening of Public Service Reform in Morocco

This programme aims to consolidate and deepen the public service reform that the Commission started to support under MEDA (programme PARAP I). It accompanies the transition from a pilot operational phase to general implementation in the Moroccan public service.

The re-shaping of the organic Finance Law of 1998, the progressive adoption of forward-looking management of posts and skills, the strengthening of administrative and budgetary devolution, and the strengthening of management capabilities in the field of public procurement are among the main objectives. This involves the understanding and use of new concepts in budgetary and human resources management by the Moroccan administration and the implementation of new practices. Past, and more recent, experience in certain OECD countries having undertaken similar reforms has shown the complexity of processes that may last over a decade. Hence, it was important that the EC continue to accompany the reform under this second consolidation programme.

ENPI assistance is also being used to leverage loans from development finance institutions to finance infrastructure investment projects and to support the private sector through loans and risk capital operations. This is done with the EIB in the context of the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) and with the EIB, EBRD and other European development finance institutions in the context of the newly established Neighbourhood Investment Facility (NIF). However the regulation does not unambiguously provide the possibility of establishing “revolving funds”. Such funds are an essential tool when it comes to supporting the private sector and SME development, which are key

priorities of the action of the European Union in the Mediterranean partner countries. The possibility to use the reflows from such operations would provide additional resources to FEMIP and NIF. This restriction is already problematic in relation to ongoing operations under FEMIP, and the problem will grow for future operations under the NIF. For this reason the Commission has tabled a legislative proposal¹⁰ aimed at amending Article 23 of the Regulation.

The Neighbourhood Investment Facility

Principally focussed on infrastructure, the Neighbourhood Investment Facility (NIF) combines EU grants (with the Commission's commitment to contribute with a total amount of EUR 700 million for the period 2007-2013) with loans from consortia of eligible European Finance Institutions. Member States can participate through voluntary direct contributions which are pooled in a Trust Fund managed by the EIB. So far, EUR 37 million of additional contributions have been pledged for the period 2008-2010.

The objective of the NIF is to leverage loan financing for large investment projects in the energy, transport, and environmental sectors. It also supports projects in the social sector and the promotion of the private sector development. In 2008, the NIF funded, for example, projects like the renovation of a hospital in the Republic of Moldova, the building of renewable energy power plants in Egypt, the rehabilitation of roads facilitating communication and trade in the Republic of Moldova and in rural areas of Morocco, and the construction of transmission lines in Georgia improving energy interconnectivity and security.

The ENPI Regulation also includes specific provisions allowing the Commission to receive and manage funds on behalf of the Member States through the Community budget. This mechanism has been used by Austria for the PEGASE (Palestino-Européen Gestion de l'Assistance Socio-Economique) mechanism with a EUR 1 million contribution through the Community budget in 2008. Over the course of the year PEGASE also managed direct bilateral contributions for EUR 130 million of funds from 13 Member States in addition to the Community budget contribution. These funds were used to support the recurrent expenditure of the Palestinian Authority.

The ENPI cross-border cooperation component has been launched. By the end of 2008 the Commission had adopted thirteen out of the fifteen planned programmes¹¹. Russia has expressed much interest in participating in the seven cross-border cooperation programmes and has promised to provide substantial co-financing to these programmes¹².

2.3 Delivery against the commitments undertaken

In the Declaration on democratic scrutiny and coherence of external actions the Commission undertook to have a regular dialogue with the European Parliament on the Strategy Papers. For the ENPI this was done in December 2006 before the Strategy Papers received a formal opinion by the ENPI Committee and were adopted by the Commission. A second meeting was

¹⁰ COM(2008) 308 of 21.5.2008.

¹¹ Spain and Morocco did not present the joint programming document for their two programmes by mid-2008. As a result, the 2008 allocation for Spain under this programme was returned to the European Regional Development Fund. Spain and Morocco may still present a joint programme to the Commission until June 2010.

¹² As Russia has regrettably chosen not to sign the relevant Financing Agreement, it is for the time being not participating in the Baltic Sea Regional CBC Programme which has caused difficulties for its implementation.

held in November 2007 to discuss, inter alia, the revision of the Strategy Paper for the Inter-regional Programme leading to the introduction of the NIF.

In the run-up to the European Council of the December 2005, the Commission expressed its intention to devote up to 3% of the funding for our neighbours to areas concerning or related to migration. This would correspond to approximately EUR 350 million for the period 2007-2013. To that effect an estimated EUR 90 million was allocated to migration-related measures under the ENPI country, multi-country and cross-border cooperation programmes in 2007 and 2008. This is complemented by the allocations under the DCI thematic programme for Migration and Asylum, where amounts of EUR 19.6 million were allocated to the Eastern migratory route and EUR 27.6 million to the Southern migratory route comprising ENPI and ACP countries. Over the period 2007-2010 some 50% of the global allocation provided under the migration thematic programme is set to benefit ENPI countries. On that basis it should be possible to fully meet the 3% objective.

ENPI countries also benefit from the thematic programmes established under the Development Cooperation Instrument (DCI). Within the DCI financial envelope an indicative amount of EUR 465 million has been set aside for neighbouring countries over the period 2007-13. To that effect EUR 70 million was committed in 2007-8 and EUR 105 million is planned for 2009-10. It is expected that by the end of 2013 the full amount will be used.

2.4 Adequacy of the financial envelopes and financial provisions

The ENPI financial envelope for the period 2007-13 is EUR 11 181 million. It is expected that by the end of 2009 commitments will reach 43.5% of the envelope. This is significantly above the level of 38.3% foreseen in the original Commission financial programming and reflects the need to address the situation of the occupied Palestinian territories. In view of that, the budgetary authority has agreed each year to supplement the programmed resources with funds coming from various sources.

Article 29 of the ENPI Regulation states that up to 5% of the funds should be allocated to cross-border cooperation programmes over the period 2007-13. For the period 2007-2010 it is expected that commitments for CBC programmes will remain significantly below this limit, reflecting the slow start of this new type of cooperation and the late adoption of the programmes. However, 13 out of the 15 programmes have now been adopted and it is expected that implementation will start in 2009. This will lead to increased absorption over time to reach, by 2013, a level close to what was anticipated.

Point 37 of the Interinstitutional Agreement (IIA) on budgetary discipline and sound financial management allows the limit of 5% of the co-decided financial envelope to be exceeded only when “*new, objective, long term circumstances arise for which explicit and precise reasons are given*”. The Commission considers that the events in the occupied Palestinian territories and in Georgia do correspond to these circumstances. Based on the final 2007 and 2008 budgets, and the 2009 Budget, it appears that the reference amount of EUR 11 181 million will be exceeded by more than 5% at the end of the period. The deviation (+ EUR 671 million including 2009 Budget) is exclusively due to the situations in Palestine and in Georgia which have given rise to successive increases above the programmed amount of the ENPI envelope. Some EUR 623 million additional to the ENPI envelope has been mobilised for Palestine and some EUR 48 million in 2008 for the Georgia crisis. The Commission considers that these provisions of the IIA apply for the ENPI envelope because the events in the occupied Palestinian territory and in Georgia correspond to an objective and long-term situation with explicit and precise reasons provided to justify the reinforcements which have been approved by the budget authority. Thus there is no necessity to modify the co-decided reference amount

even when taking into account the additional EUR 350 million proposed for the Eastern Partnership.

2.5 Conclusion on the ENPI Regulation

On the whole, the ENPI has gone a long way towards addressing its declared objectives. Programming documents have become more geared towards supporting the implementation of ENP action plans, their scope reflects the breadth of the partnerships between the EU and the partner countries, and their budget reflects the “ambition” of such partnerships. Multi-country programmes have been instrumental in supporting ENP flagship initiatives and the policy regional dimensions. Its cross-border cooperation component has been launched.

Through implementation mechanisms such as twinning and TAIEX support is being provided for institution building, legislative approximation and regulatory alignment. Sector and Budget Support Operations are instrumental to promote the reform agenda agreed in the context of the ENP Action Plans. However the fact that the regulation does not unambiguously provide the possibility of establishing “revolving funds” is a problem when it comes to supporting the private sector and SME development under FEMIP of NIF.

The Commission undertook to enter into a democratic scrutiny dialogue with the Parliament on the draft Strategy Papers. This was done twice in December 2006 and November 2007. The Commission has also programmed funds with the view of devoting up to 3% of the funding for our neighbours to areas concerning or related to migration.

The financial envelope is tight. Sustaining planned commitments to support reform in ENP countries and supporting new and ambitious regional initiatives while simultaneously responding to “protracted” crisis situations will remain a challenge.

The provisions of the ENPI Regulation appear adequate to sustain cooperation with neighbouring countries provided that two issues are addressed. The first concerns the possibility of establishing revolving funds, the lack of which severely hampers the Union’s ability to support private sector operations. An amendment to Article 23 of the ENPI Regulation has already been tabled by the Commission and it is currently being discussed by the legislator. The second concerns the financial needs linked to “protracted” crisis situations such as in the occupied Palestinian territories or in Georgia. For this to be addressed it may become necessary to rely on the flexibility mechanisms provided in the IIA.

3. INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA)¹³

The Instrument for Pre-accession Assistance (IPA) replaces the former pre-accession instruments PHARE, ISPA, and SAPARD, the Turkish pre-accession instrument and the financial instrument for the Western Balkans CARDS.

The primary objective of IPA is to assist candidates and potential candidates¹⁴ in the process of progressive alignment with the standards and policies of the European Union in order to become EU members once they fulfil the necessary conditions. That overall primary objective

¹³ This review draws mainly on operational experience and partly on the 2 evaluations so far carried out in respect of IPA: (i) Review of Multi-annual Indicative Planning Documents’ process (Dec. 2008) and (ii) Review of Donor Coordination in Turkey, Croatia, the former Yugoslav Republic of Macedonia and Albania (final report under finalisation).

¹⁴ Current candidates are: Croatia, the former Yugoslav Republic of Macedonia and Turkey. Current potential candidates are: Albania, Bosnia and Herzegovina, Montenegro, and Serbia, plus Kosovo under UNSC Resolution 1244/99.

encompasses a number of secondary objectives — including the objective to establish structures in the countries concerned which (i) are effective in delivering sound financial management and (ii) will foreshadow the structures they will have to put in place for managing post-accession instruments (e.g. Structural Funds).

Planning and programming of the assistance is provided in accordance with the general policy framework for pre-accession defined in the European and Accession Partnerships, and taking due account of the annual Enlargement Strategy and Progress Reports issued by the Commission.

IPA streamlines all pre-accession assistance within a single framework. However, in order to address each country's challenges in the most effective way, IPA consists of five different components which deliver tailor-made assistance in accordance to the needs assessment and findings in the annual Progress Reports.

The first two IPA components, “Transition assistance and institution building” (TAIB) and “Cross-border cooperation” (CBC) apply to both candidates and potential candidates.

The TAIB component aims at strengthening democratic institutions, promotion and protection of human rights and fundamental freedoms, economic reforms, social inclusion, and, in general, providing assistance for progressive alignment with, or adoption and implementation of, the *acquis communautaire*.

Typically, the assistance is provided through training, technical assistance, investment in regulatory infrastructure, budgetary support etc. However, in potential candidates the TAIB component is also used to undertake projects which would otherwise fall, in candidate countries, under components III, IV and V, e.g. investment-type operations.

Assistance from EU Member States officials and experts is also provided through the twinning instruments, TAIEX and SIGMA.

The CBC component has two primary strands: cross-border cooperation a) among IPA beneficiary countries and b) between them and adjacent Member States. On top of promoting sustainable economic and social development in border areas, cross-border cooperation helps reconciliation and good neighbourly relations, while also facilitating the integration of the enlargement countries into the EU. This is particularly relevant in the Western Balkans, a region with a recent history of conflict. Secondly, the CBC component also finances the participation of candidates and potential candidates in transnational cooperation programmes with Member States under the Structural Funds' Territorial Cooperation objective and the participation of Turkey in the ENPI Black Sea basin cooperation programme with Member States and ENP countries.

IPA components III, IV and V apply to candidate countries only. They aim at preparing these countries for the implementation of Structural, Cohesion and Rural Development Funds upon accession through a “learning by doing” process. This requires the countries to have the necessary structures and administrative capacity to manage the assistance.

Component III, Regional Development, is the precursor of the ERDF and the Cohesion Fund. It finances investments and associated technical assistance in areas such as transport and the environment as well as economic and social cohesion.

Human Resources Development (component IV) is the precursor of the European Social Fund (ESF). It supports employment, social inclusion of disadvantaged people and human capital.

Component V, Rural development, contributes to the sustainable adaptation of the agricultural sector and rural areas and to the candidate countries' preparation for the implementation of the *acquis communautaire* concerning the Common Agricultural Policy and related policies.

3.1 Delivery against the declared objectives

Despite some delays due to the late approval of the legal base, IPA planning and programming in the years 2007 and 2008 largely took place in a smooth and effective way. The first generation of Multiannual Indicative Planning Documents (MIPDs) 2007–2009 was adopted by the Commission in the first half of 2007. In accordance with the priority for assistance indicated in the MIPDs, annual or multiannual programmes – according to the respective components – were adopted towards the end of 2007 and in early 2008. The evaluation of the MIPD process made some recommendations for improving the processes, e.g. reinforcing the internal procedure for reviewing the MIPD, improving the quality of the consolidated needs assessments and reducing the scale of the review undertaken for the middle year of the three.

Implementation of IPA programmes only started in the course of 2008. In most cases individual contracts only started to be signed by later 2008 or early 2009, so it is too early to make judgments about the results of these programmes. However, the objective of establishing the appropriate structures within the countries is being progressively achieved. National authorities responsible for IPA programming and implementation have been designated in all cases. They are responsible for inter-ministerial coordination required for setting up IPA programmes. Moreover, candidate countries in particular have been very busy setting up the management and control systems required for the implementation of IPA assistance in a decentralised manner.

In 2008, MIPDs have been reviewed for the horizon 2008–2010 in the light of the 2007 enlargement strategy paper and regular reports, which provide for greater focus to be given at an early stage to the rule of law and good governance. The adoption of the revised MIPDs was followed, in the second half of 2008, by the 2008 annual programmes, in particular the national and multi-beneficiary programmes under the TAIB component.

In order to increase the leverage of IPA support in the area of economic and social development, the initiative has been taken to coordinate IPA support with that of the International Financial Institutions (IFIs) and other donors. An Infrastructure Projects Facility has been launched with the EIB, the EBRD and the Council of Europe Development Bank (CEB). It constitutes an important move towards establishing a Western Balkan Investment Framework by 2010. Other initiatives included an energy efficiency facility as well as a regional instrument for SME development: the European Fund for South East Europe. This benefits tens of thousands of small businesses across the region.

Special attention has been given to people-to-people contacts. Visa facilitation and readmission agreements entered into force with all countries concerned in January 2008. Measures aimed at increasing people-to-people contacts also include more mobility opportunities for undergraduate and graduate students under the Erasmus Mundus programme and additional funds for youth exchanges and partnership under the Youth in Action programme. The Tempus programme continued to provide support to higher education reform through partnerships between universities.

Important efforts have been made to provide support for regional cooperation initiatives. The newly established Regional Cooperation Council (RCC) is operational. It now faces the challenge of ensuring the efficiency of regional activities and their further streamlining. IPA

provides assistance to the secretariat of the RCC, the Regional School of Public Administration to be set up in Danilovgrad (Montenegro), a new disaster risk reduction initiative, as well as cultural heritage rehabilitation and history textbooks projects. IPA also supports cooperation in trade matters through the CEFTA Secretariat.

Support under the Civil Society Facility

Increased participation by civil society organisations in the reforms undertaken in the enlargement countries is a strong determinant of the pace and quality of the accession process, and of public support for accession.

The Commission set up a new financing facility under IPA to promote civil society development and dialogue. Support under the Civil Society Facility for 2008 amounts to some €30 million, geared towards capacity building at local level. The Commission organised a major conference on civil society development in Southeast Europe in April 2008 to stimulate networking, exchange best practice and build partnerships.

Under the Facility, further capacity building and networking projects will be funded, including a 'People-to-people' visitor programme, the setting up in the first half of 2009 of technical support offices in each country, and support schemes for civic partnerships in areas such as environment, energy efficiency, health and safety at work, and the fight against corruption, organised crime and trafficking. Under IPA 2009 support schemes to civil society partnerships will give priority to sectors such as culture, minorities and business associations.

3.2 Implementation issues

The TAIB component is implemented through eight annual programmes – one per candidate/potential candidate – and a number of annual multi-beneficiary programmes covering some or all enlargement countries.

The CBC component is implemented through eight multi-annual (2007–2009) cross-border programmes between Western Balkans countries¹⁵ and ten multi-annual programmes between them and adjacent EU Member States¹⁶.

IPA Cross-border Cooperation

The IPA CBC component has been designed to mirror as much as possible the Territorial Cooperation objective of the EU Structural Funds with the aim of preparing beneficiary countries for its implementation upon accession. Concerning cross-border cooperation between EU Member States and IPA beneficiary countries, IPA has radically simplified the programming and implementation. It now takes place under a single set of rules (the IPA regulations applying on both side of the border), a single budget (where IPA funds are pooled with funds from the ERDF) and under the responsibility of a single managing authority located in one of the participating EU Member States (shared management). Ten

¹⁵ Croatia–Serbia, Croatia–Bosnia and Herzegovina, Croatia–Montenegro, Serbia–Bosnia and Herzegovina, Serbia–Montenegro, Bosnia and Herzegovina–Montenegro, Montenegro–Albania, Albania–the former Yugoslav Republic of Macedonia.

¹⁶ Croatia–Slovenia, Croatia–Hungary, Serbia–Hungary, Serbia–Romania, Serbia–Bulgaria, the former Yugoslav Republic of Macedonia–Bulgaria, the former Yugoslav Republic of Macedonia–Greece, Turkey–Bulgaria, Albania–Greece and the IPA CBC Adriatic programme (Croatia, Bosnia and Herzegovina, Montenegro, Albania and Serbia, the latter in phasing-out, and Slovenia, Italy and Greece).

cross-border cooperation multiannual (2007–09) programmes between beneficiary countries and neighbouring Member States have been adopted so far. Nine are bilateral and the tenth is multilateral, covering the coastal areas along the Adriatic of three Member States and four Western Balkan countries. At the two remaining borders between Turkey and adjacent Member States (Cyprus–Turkey and Greece–Turkey), the conditions for CBC programmes have not been met yet.

At borders between candidates/potential candidates (i.e. intra–Western Balkan borders), eight bilateral CBC programmes had been prepared by national authorities and adopted by the Commission by December 2007. This is a remarkable result considering the recent history of the region.

The Regional Development component is implemented in Croatia and Turkey through three national multiannual (2007–2009) operational programmes (environment, transport and regional competitiveness). In the former Yugoslav Republic of Macedonia this component is implemented through one national multiannual programme concerning investments in environment and transport. In a future revision this programme may be extended to include regional competitiveness.

The Human Resources Development and the Rural Development components are implemented in the three candidate countries through national multiannual operational programmes, respectively “Human Resources Development” and “Rural Development”.

For components III and IV, the operational programmes adopted by the Commission in November and December 2007 cover the priorities and the financial allocations specified in the MIPDs 2007–2009. They will be revised in the course of 2009–2010 to take account of the revision of the MIPDs and the addition of the financial envelopes for the years 2010–2013.

The Rural Development programmes under component V, adopted by the Commission in February 2008, cover the whole 2007–2013 period. They are reviewed annually to take account of the revised MIPDs and of the yearly added financial envelopes in the Multiannual Indicative Financial Framework (MIFF).

In potential candidates, the implementation of the IPA 2007 programmes started in the course of 2008. In candidate countries, the implementation started only towards the end of 2008, and only for some programmes, due to the substantial delay in the accreditation of the national authorities responsible for managing the assistance in decentralised mode and the resulting delay in conferral of management powers by the Commission, a process which is not completed yet for all countries/components¹⁷.

In the case of the former Yugoslav Republic of Macedonia, while the management and control systems required for decentralised management are being set up, the implementation of components I and II programmes is taking place under the responsibility of the Commission’s Delegation (centralised deconcentrated management). The implementation of components III, IV and V will only start once competent authorities have been accredited and the Commission has conferred management powers to the authorities of the country. This

¹⁷ Commission decisions conferring management powers were adopted in late 2008 for components I to IV in Croatia and for components I and II in Turkey. For the remaining components/countries, conferral of management powers by the Commission is expected in the course of 2009 or, in certain cases, in the beginning of 2010.

process is expected to be completed — including for components I and II — in the course of 2009.

Potential candidate countries are progressing – though at different speeds – towards decentralised management of the assistance. Candidate countries which already implement assistance in a decentralised manner, are working on roadmaps to achieve decentralisation without ex ante control by the Commission.

The transition from implementation of pre-accession assistance by the European Agency for Reconstruction (EAR) to the Commission Delegations and offices in Belgrade, Podgorica, Pristina and Skopje has been completed. The Agency was phased out on 31 December 2008. The eventual goal is for partner countries themselves to take over the implementation of assistance, when they demonstrate their readiness to do so.

3.3 Delivery against the commitments undertaken

Planning and programming of the assistance is provided in accordance with the general policy framework for pre-accession — defined in the European and Accession Partnerships — and taking due account of the annual progress reports and strategy paper issued by the Commission. Within the framework of the democratic scrutiny process, MIPDs were submitted to and discussed with the Parliament in March 2007 (MIPDs 2007–2009) and in September 2008 (MIPDs 2008–2010).

In terms of the coordination, coherence and complementarity of IPA assistance, significant progress has been achieved in donor coordination. The Commission has involved in this process the major International Financial Institutions and bilateral EU and non-EU donors, as well as regional cooperation through partnership with the Regional Cooperation Council.

Donor Coordination

Since 2005, the Commission has promoted coordination among donors in countries benefiting from EU pre-accession assistance. To push the process forward, with the entry into force of IPA, the Commission promoted more structured coordination among donors who operate in Western Balkans and Turkey: EU Member States, non-EU donors (such as the USA, Norway, Switzerland, UN agencies) and International Financial Institutions (EBRD, EIB, World Bank, KfW Bankengruppe, Council of Europe Development Bank). The aim was to increase coordination of assistance programmes with a view to increasing effectiveness and efficiency in delivery, improving complementarity and avoiding duplications. The Commission promoted a consensus among donors to foster “ownership” of the coordination of assistance by the beneficiary countries as a vital element to maximise the impact of aid, and to support the national authorities in their efforts to assume responsibility for donor coordination. This line was confirmed during the second annual Donor Coordination conference which took place in Brussels in October 2008. The IPA multiannual planning documents and national strategies have been recognised as key donor coordination tools. The donors agreed to enhance coordination at sector level and promote division of labour based on comparative advantages in line with the principles of the Paris Declaration on Aid Effectiveness.

Coordination with International Financial Institutions (IFIs) has been reflected in a number of initiatives taken by the Commission and IFIs in the last two years. Among others, in December 2007 the Commission together with the EIB, EBRD and Council of Europe Development Bank (CEB) established the Infrastructure Project Facility to help prepare infrastructure investment projects in the transport, energy, environment and social sectors. Moreover, in order to intensify coordination, in March 2008 the Commission, the EIB, the EBRD and CEB initiated the Western Balkan Investment Framework. In the context of the

economic and financial crisis, since November 2008 the Commission has been working very closely with IFIs to coordinate donors' responses, to identify potential for joint actions and to prepare a "Crisis Response Package" – where the IPA will contribute a total of EUR 120 million – to support SMEs and the private sector in general, energy efficiency, and municipal investments.

Based on the analysis set out in the 2007 Enlargement Strategy paper, in the 2008 programming of the TAIB component increased support was given to enhance governance, encourage administrative and judicial reform, strengthen the rule of law, support the fight against corruption and organised crime, promote human rights, protect minorities and develop civil society. Assistance to political criteria represents now about one third of the TAIB component. The other two main priorities for assistance under the TAIB component are economic criteria and European standards. Greater participation by partner countries in Community programmes and agencies will be encouraged.

In its meetings of December 2007 and June 2008, the European Council confirmed the EU's readiness to assist Kosovo's¹⁸ economic and political development through a clear European perspective, in line with the European perspective of the region. To this end, additional funds (EUR 60 million) were earmarked to strengthen the TAIB annual 2008 programme.

In July 2008, the Commission organised a donor conference for the socio-economic development of Kosovo which resulted in a total pledge of EUR 1.2 billion, with the European Union and its member states contributing nearly EUR 800 million. This support should provide a considerable boost to Kosovo's development.

In response to the international financial crisis, the Commission is ready to consider different ways of assisting the authorities in the enlargement countries with managing its financial and economic consequences.

3.4 Adequacy of the financial envelopes and financial provisions

The financial reference amount for the 2007–2013 period is EUR 11.468 billion. Some reinforcements to the original financial programming have taken place to tackle the Kosovo needs (under UNSCR 1244/1999) to meet commitments made in 2006 and enhanced at the donor conference in July 2008. Barring major changes of circumstance or unforeseen developments in the Western Balkans and Turkey, it will be possible to stay within the 5% deviation allowed for in the interinstitutional agreement. Increases so far amount to around 1.4% of the total IPA reference amount.

3.5 Conclusion on the IPA Regulation

Enlargement proved to be a very powerful EU policy. It is an excellent example of the high added value of integrated policies. Therefore, it should remain a strategic priority of the European Union throughout the current period.

There is no need to modify the IPA Regulation. Possible changes in the status of IPA beneficiaries from potential candidate to candidate will require amendments to the annexes to the Council Regulation through the procedure envisaged in Article 23 of the Regulation.

The financial envelope is currently deemed appropriate, and no change of the reference amount is needed. However, it should be closely monitored as it might not be adequate to deal with unforeseen developments in the region.

¹⁸ Under UNSCR No 1294/99.

4. INSTRUMENT FOR STABILITY (IFS)

4.1 Delivery against the declared objectives

In the new framework, the IfS is the newest and most innovative financial instrument. It has been established with the objective of:

- enabling the Community to give a consistent and integrated response to crisis and impending crisis, using a single legal instrument with simplified decision-making procedures.
- building capacity to address specific global and transregional threats that have a destabilising effect and to ensure preparedness to address pre- and post-crisis situations.

As regards the **first objective**, the instrument is the major innovation of the new architecture endowing the Community with an efficient tool for consistent and integrated crisis response capacity. By their very nature, crisis response measures can not be programmed in advance as they are developed in response to crisis situations. When used in response to political crises, measures can be deployed alongside and in close political coordination with CFSP/ESDP actions. This makes it possible for the EU to accompany a political response with rapid delivery. The measures adopted in the course of 2007 and 2008 vary both geographically and thematically. A number of programmes adopted in the course of 2007 have already started delivering concrete results. The 2007-2008 measures supported a broad range of issues either in crisis and conflict-related situations or in major disaster response programmes. The global reach of the instrument is also proving essential. Some EUR 220 million was committed in 2007-2008 for crisis response and EUR 135 million is programmed for 2009. The main share of support was provided in Africa (mainly DRC, CAR, Chad, Somalia — 29%), followed by actions in Asia (mainly Afghanistan, Sri Lanka, Nepal, Southern Thailand, Aceh, East Timor — 19%), the Middle East (Lebanon, Palestine, Iraqi refugees in Syria — 12%), Kosovo (EUR 24 million) and Georgia (EUR 17 million). Thematically, the adopted measures cover a broad range of issues, targeted on the specific needs of each conflict/post-conflict situation: short-term advice to develop and kick-start post-conflict security system reform (CAR, DRC, Guinea-Bissau, Lebanon, Palestine, East Timor), measures in areas where ESDP missions are deployed (Georgia, Kosovo, DRC, Afghanistan, Chad, Palestine), support to regional peace-building capacity (AU — AMISOM Somalia, AU-UN Mediation in Darfur), the rule of law and transitional justice (Afghanistan, Kyrgyzstan, Colombia, Haiti, Sierra Leone, Solomon Islands), support to interim administrations (ICO Kosovo, Somalia TFG), conflict resolution and reconciliation (Sri Lanka, Thailand, Colombia, Uganda, Zimbabwe, Peru, Palestine, Burma, Nepal), post-disaster recovery programmes and needs assessments (Bangladesh, Nicaragua, Lebanon, Peru), support to displaced populations (Lebanon, Syria), and conflict resources (dedicated facility).

As regards the **second objective**, support in the context of stable conditions, the Strategy for the years 2007-2011 and the Indicative Programme for the years 2007-2008 were adopted in August 2007 after receiving a unanimously favourable opinion from the IfS Committee and from the European Parliament through the democratic scrutiny process. The Indicative Programme 2009-2011 obtained the same favourable opinion and will be adopted in March 2009. The programmes support international efforts to address the proliferation of weapons of mass destruction (EUR 53 million for 2007-08 and EUR 123 million for 2009-2011) and global and trans-regional efforts to address the threats posed by trafficking, terrorism and organised crime (EUR 19 million for 2007-08 and EUR 63 million for 2009-2011). It is one of the new and innovative components of the IfS aiming at developing longer-term EC actions to counter global and trans-regional threats arising from organised crime, trafficking, proliferation of nuclear, biological and chemical agents and also threats to critical

infrastructure and public health. It complements actions supported through other EC instruments, including the EDF. Projects to address illicit trafficking of drugs from Afghanistan, of radioactive and nuclear materials in the former Soviet Union and to strengthen export controls of dual-use goods have been implemented in line with the first indicative programme (2007-2008). Weapons of mass destruction (WMD) and missile proliferation constitute a major threat not only for the EU but also for international security. In responding to the risks related to WMD, the EU continued the implementation of its WMD Strategy in 2008 through a number of EU Joint Actions, as well as through the Stability Instrument providing political, financial and technical support to competent multilateral bodies and assistance to third countries on nuclear security, export control, bio-safety/bio-security, redirection of former weapons scientists and border monitoring in conformity with the UNSC Resolution 1540. In addition to continuing efforts in the former Soviet Union, the Commission started to develop its assistance in new regions like the Middle East and South-East Asia. Work has also been taken forward to include a non-proliferation clause as an essential element in agreements with third countries. Such a clause has been included in agreements between the EU and almost 100 countries worldwide.

A mechanism to mobilise EU expertise in the domains covered by the IfS (expert support facility) has been successfully developed and employed in the preparation of the second indicative programme (2009-2011). More than 50 EU experts visited more than 20 potential partner countries to assess the scope, needs and conditions for cooperation and assistance under the IfS. Threats to critical infrastructure and major public health threats with a potential trans-national dimension are new areas requiring extensive preparation and the Commission plans to come back to these two areas in subsequent Indicative Programmes. Finally, an important objective is the crisis-preparedness component. For the period 2007-2008, EUR 15 million was programmed and committed for this component, and EUR 30-39 million is foreseen for 2009-2011. It has been framed as a new Peace-Building Partnership which aims at mobilising and consolidating civilian expertise for peace-building activities. It focuses principally on strengthening directly the upstream capacity of the relevant partners to rapidly respond to a crisis scenario, and addresses, notably, civil society organisations, international organisations, and relevant agencies in EU Member States. The work under the Peace-building Partnership is the subject of a fruitful ongoing dialogue with the relevant sub-group of the European Parliament's Committee on Foreign Affairs.

The mid-term review of the IfS Strategy Paper 2007-2011, as required by Article 7(3) of the Regulation, is expected to be conducted in 2009.

As far as landmines are concerned, it is worth recalling that the IfS is not meant to be an instrument replacing — legally or financially — the repealed Anti-Personnel Landmines (APL) thematic budget line. The bulk of the funds to support mine action should come from the geographic instruments (DCI, IPA, ENPI, EDF) or the humanitarian aid instrument in case of need for humanitarian demining. The IfS support is foreseen only under its short-term remit and with some constraints and for addressing the illicit trafficking of firearms and ammunition. From a stock-taking exercise carried out among relevant Commission services in terms of programming funds committed to mine action after the repeal of the APL regulation, it is evident that funds have dropped by one third, which was the ratio covered by the APL horizontal budget line vis-à-vis the geographic and development instruments (the remaining two thirds). DG External Relations is strengthening internal coordination within the Commission to ensure that APL are given proper attention and hence are addressed within national programmes. This has been recently reinforced by the adoption of new guidelines for APL action into CSPs and NIPs.

The objectives and scope of the Regulation have proven to be adequate. However, an amendment is necessary to take into account the judgment of the European Court of Justice on **small arms and light weapons**. On 20 May 2008, the Grand Chamber of the European Court of Justice annulled Council Decision 2004/833/CFSP of 2 December 2004 implementing Joint Action 2002/589/CFSP with a view to a EU contribution to ECOWAS in the framework of the Moratorium on Small Arms and Light Weapons (hereinafter the ECOWAS Case)¹⁹. With respect to the fight against the proliferation of small arms and light weapons, the Council had already adopted several Joint Actions in the past. The Court held that measures to combat the proliferation of small arms and light weapons fall within the competences conferred on the Community in the field of development policy and cannot be pursued as part of the CSFP if their main aim or component relates to development policy. This view was not shared by the Council when the IfS was adopted in November 2006. Therefore, Article 3(2)(i) of the Regulation carried the following restriction:

“Assistance shall be provided only to the extent necessary to re-establish the conditions for social and economic development of the populations concerned, in a situation of crisis or emerging crisis as referred to in paragraph 1. It shall not include support for measures to combat the proliferation of arms.”

When the IfS Regulation was adopted, Council and Commission made a joint statement in which they agreed that in the context of the mid-term review of the IfS Regulation under Article 25, the scope of Article 3(2)(i) would be revised as necessary²⁰. In the view of its clear wording excluding financing to combat the proliferation of small arms and light weapons, it is necessary to propose a revision of that Article in order to bring it in line with the case law of the Court. For the same reason, Article 4(1)(a) on actions in support of the fight against the illicit trafficking should be revised to refer explicitly to “small arms and light weapons”.

4.2 Implementation issues

The provisions foreseen under the regulation have proven to be adequate especially as regards the adoption of Exceptional Assistance Measures below the threshold of EUR 20 million that the Commission can adopt without the comitology procedure. This allows for rapid decision-making, which is absolutely necessary in the field of crisis management. Council and Parliament are kept informed in line with the Regulation and the Commission’s commitments (see below under point 4.3).

One implementation issue has emerged relating to the provisions for **participation and rules of origin** under Article 17 for the Peace-building Partnership. The first (2007) Annual Action Programme under the Peace-building Partnership will finance (EUR 7 million) *inter alia*: capacity-building and early warning activities and exchange of experience on best practice for civil society organisations; early warning and early recovery work with UNDP and the African Union; and training for civil stabilisation missions (including the continuation of training of Member State experts for civilian crisis management by the European Group for Training — EGT). The financing decision was adopted in late 2007, and the first components have been contracted during the first half of 2008. A second (2008) Annual Action Programme for EUR 8 million was adopted in March 2008. Moreover, the Peace-building Partnership builds upon existing work with relevant civil society organisations, which is currently being undertaken in the context of a preparatory action for the continuation of the earlier-established ‘Conflict Prevention Network’. While some capacity-building actions are

¹⁹ ECJ, Case C-91/05 (ECOWAS).

²⁰ Council document 14010/06 ADD 1 of 27/10/2006.

implemented through the direct award of contracts to International Organisations, a large part (EUR 5.85 million in the AAP 2008) for Peace-building Partnership Support (*Civil society capacity-building: EUR 4 million; Civil society early warning and field-based analysis activities on conflict prevention: EUR 1.5 million; Pro-active policy advice from civil society: EUR 0.35 million*) is being awarded through calls for proposals. However, the provisions for participation and rules of origin exclude OECD countries which do not belong to the EU or the EEA, like Switzerland and Canada, while no such restriction exists for contracts under Article 3 (crisis response). This poses a serious setback to the potential quality of action and the attainment of objectives of Article 4(3), which are closely linked to those pursued under Article 3. It is therefore proposed to open up participation in the award of procurement or grant contracts under Article 4(3) on a global basis, bringing it into line with measures under Article 3.

4.3 Delivery against the commitments undertaken

The adoption of the IfS was accompanied by a variety of commitments from the Commission vis-à-vis the Parliament and the Council included in various Declarations and exchanges of letters.

Declaration of the Commission to the Parliament on the Stability Instrument

In this Declaration, the Commission undertook to:

- (a) “ *inform the Parliament in a timely manner of exceptional assistance measures adopted, and*
- (b) *to ensure that measures adopted under Article 4(1)(a) in relation to the fight against terrorism and organised crime are in accordance with international law. Such measures will be targeted at countries which demonstrate a clear political will to address these problems in a manner which ensures full respect for their international human rights obligations and applicable humanitarian law. The Commission will monitor carefully the implementation of such measures to ensure compliance with these principles.”*

The Commission has delivered on the first commitment by communicating to the Parliament the information it provides to the Council pursuant to Article 6(5): “*Before adopting or renewing any Exceptional Assistance Measures costing up to EUR 20 000 000, the Commission shall inform the Council of their nature, objectives and the financial amounts envisaged*”. This has been implemented by way of Information Notes on each measure addressed to both Council and Parliament.

Regarding the second commitment, the Commission has so far, under the AAP 2007, adopted one measure to counter drug trafficking from/to Afghanistan along the heroin route with a special emphasis on the western route. The specific objective is the development of trans-regional capacity to collect, analyse and share law enforcement data in the areas of border control and forensics for Economic Cooperation Organisation (ECO) member countries. The project is planned to be implemented through EU Member States, in collaboration with UNODC and Interpol. An additional contribution of up to EUR 4.3 million is envisaged under the AAP 2008. The decision has also been taken on the basis of the democratic process in Afghanistan, and the substantial EU commitment in the country to enhancing the rule of law and effective civilian policing with full respect for international human rights.

Commitment of the Commission to the Parliament towards the establishment of a Peace-building Partnership

In a letter from Commissioner Ferrero-Waldner to the Chairman of Parliament's Foreign Affairs committee on 7 June 2006, the Commission's proposals for establishing a Peace-building Partnership under the Stability Instrument were set out, to build on the European Programme for the Prevention of Violent Conflict adopted by the 2001 European Council, the commitments in the European Consensus on Development on addressing state fragility, and the Communication on Linking Relief, Rehabilitation and Development²¹. In delivering on this commitment, the Commission included substantial amounts in the 2007 and 2008 AAPs for the implementation of Article 4(3) of the IfS for supporting NGOs and other NSAs: EUR 3.35 million in 2007 and EUR 5.85 million in 2008. The calls for proposals were published in 2008, and the selection process is under way. Framework Partnership Agreements with NGOs are planned to be established in 2009. Regional organisations such as the African Union have already benefitted from support under Article 4(3) for enhancing early warning capabilities.

Joint Council/Commission Declaration on the Stability Instrument

This declaration was added to the minutes of the Council when it adopted the IfS Regulation. It essentially provides additional detail on arrangements to implement the information requirement under Article 6(5), in particular that "*The Commission shall keep the Council regularly informed about its planning of Community assistance under Article 3.*"

The Commission delivered on these commitments by providing the Council with an update on its planning priorities under Article 3 on a monthly basis. This update is regularly discussed with Member States, and the Commission is bound to take due account of any guidance provided by the Council. This arrangement has worked well and to the satisfaction of both the Council and the Commission.

4.4 Adequacy of the financial envelopes and financial provisions

The overall financial envelope for the Instrument for Stability for the period 2007-2013 is EUR 2.062 billion. Out of this amount, the Regulation specifies that no more than 7%, 15% and 5% is to be allocated to measures falling under Articles 4(1), 4(2) and 4(3) respectively, that is the long-term component, while the other 73% is allocated for crisis response.

The crisis response component under Article 3 represents the bulk of the budget (EUR 91 billion in 2007, EUR 128 billion in 2008) and has been entirely committed according to the priorities. The allocations for measures under Article 4(2) (up to 15% of the financial envelope) and Article 4(3) (up to 5% of the financial envelope) have also proven to be adequate. However, although the financial envelope foresaw a steep increase under this "crisis response" component, the envelope has been reduced by €40 billion and re-allocated to the financing of the Food Facility in the framework of the 2009 budget procedure. This reduction has been distributed over 2009-2013 to minimise its budget impact on that component. As a result, the 2009 budget for this component amounts to EUR 135 billion.

As regards the budget allocation foreseen for measures under Article 4(1) (up to 7% of the financial envelope), it has proven to be inadequate and needs to be increased. The areas covered by Article 4(1) are numerous and, even with multi-purpose programmes only a few can be handled effectively with the resources available. Developing effective actions in the area of critical infrastructures, public health risks, and global responses to trans-regional

²¹ COM/2001/153.

threats requires more substantial measures to allow real impact, visibility and credibility. In addition, the development of trans-regional actions which are complementary to national and regional envelopes requires an appropriate level of funding to reach critical mass and sustainability. The budgetary allocations so far (EUR 9 million in 2007, EUR 10 million in 2008, EUR 13 million in 2009), and the limit of 7% in Article 24 of the IfS Regulation do not allow for these objectives to be met.

It is therefore proposed to increase the maximum share of measures under Article 4(1) from 7% to 10%.

4.5 Conclusion on the IfS Regulation

The provisions of this new financial instrument are adequate to pursue the objectives provided that the amendments requested are adopted:

- As regards small arms and light weapons, a revision of the Regulation in order to bring it in line with the case law of the Court.
- The revision of the provisions on participation and rules of origin for measures under Article 4(3).
- The adjustment of the budget allocation for measures under Article 4(1).

Finally, the Commission is delivering on all the various commitments undertaken in the context of the adoption of the Stability Instrument.

5. EUROPEAN INSTRUMENT FOR DEMOCRACY AND HUMAN RIGHTS (EIDHR)

5.1 Delivery against the declared objectives

Community assistance under this instrument is complementary to that provided under the geographic and thematic instruments for external actions. The instrument takes over from the two previous regulations under a single framework with a global reach. It addresses global, regional, national and local human rights and democratisation issues mainly in partnership with civil society and independently of the consent of third-country governments and other public authorities.

The EIDHR is mainly implemented through calls for proposals, managed both centrally by Headquarters and directly by Delegations. The Strategy Paper 2007-2010 was adopted in August 2007 after democratic scrutiny and comitology. No problems were encountered in the strategy formulation and the Regulation has proven very instrumental in the pursuit of the policy objectives.

Following the adoption of the Strategy Paper, the 2007 Annual Action Programme was approved in December 2007, and the contractual phase started in autumn 2008. Four calls for proposals for the 2008 AAP were launched in January, April and June 2008. A fifth was launched and is permanently opened. The 2009 AAP is likely to be adopted by the end of March 2009.

It is too early to evaluate the EIDHR delivery against the declared objectives, but this is the normal cycle for this kind of programme where there is a time-lag between the launch of the programme and the evaluation of the results. A first indicator at this stage is the high participation of civil society organisations in the different calls for proposal, which shows these organisations' interest in the instrument.

The mid-term revision of the strategy paper will be carried out in 2009 for adoption in early 2010.

5.2 Implementation issues

One of the founding principles of the EIDHR is its independence from the consent of the third-country governments and other public authorities. In this context, the implementation of the strict wording of Article 13(6), which excludes the payment of taxes, duties or charges, is proving to be highly problematic, especially in countries where human rights and fundamental freedoms are most at risk. Indeed, in these cases, third countries are unwilling to exempt EIDHR local beneficiaries.

The “tax and duties” issue has been systematically raised by Delegations and partner NGOs during 2008. Under the current instrument, taxes paid by the beneficiaries are strictly not eligible and this creates an extra financial burden on the beneficiary in a politically sensitive area (i.e. increasing de facto the beneficiaries’ contribution and decreasing the EC contribution). In countries where fundamental rights are most at risk, full financing in conformity with Article 169 of the Financial Regulation is considered to protect the security of the organisations and their staff: this is compromised by the current provisions of the Regulation.

The flexibility inserted in the majority of other instruments is required to allow for the payment of taxes, duties or charges in exceptional cases and on a case-by-case basis. There is therefore a need for a technical amendment to harmonise Article 13(6) with the other instruments as follows: “*Community assistance shall, in principle, not be used for paying taxes, duties or charges in beneficiary countries*”. This flexibility will be consistently circumscribed through internal guidelines for all instruments, clarifying that the exception can only be granted on a case by case basis and under exceptional circumstances.

5.3 Delivery against the commitments undertaken

In the framework of the final adoption of the Regulation, the Commission issued a Declaration on limiting *Electoral Observation Missions (EOMs)* to 25% of the total available funds over the period 2007-2013, with a maximum of 30% for a given year in duly justified cases. The programming and funding of EOMs over 2007-2009 has respected that ceiling and the Commission will continue over the coming years to prioritise EOMs where the Community’s support will bring the most value-added. An ad-hoc budget line has been created in the budget nomenclature to follow-up on EOM funding. The budget was EUR 30 million in 2007 and EUR 23 million in 2008. For 2009, the budget amounts to EUR 32 million, but the final funding will depend on the number of EOMs supported. This corresponds to 19% of the total budget covering the first 3 years.

5.4 Adequacy of the financial envelopes and financial provisions

The programmed financial envelope for EIDHR has been respected over the years 2007-2009. During the year 2008, a budgetary transfer of EUR 8.4 million from line 19 04 03 (EOMs) to line 19 04 01 (general Human Rights and Democracy) has allowed additional EIDHR activities to be financed in response to the calls for proposals. This was exceptionally possible because a lower number of EOMs was decided in 2008 by the Commission, in agreement with the Council and the European Parliament.

5.5 Conclusion on the EIDHR Regulation

Given its implementation methods, the EIDHR contractual phase started in autumn 2008. It is therefore too early to evaluate its delivery against the declared objectives. However, no implementation problems have appeared except for the issue of taxes, duties and charges.

Further to this review of the EIDHR, it is therefore proposed to proceed with the technical amendment of the Regulation bringing Article 13(6) on taxes, duties and charges into line with the other instruments in order to allow in exceptional and duly justified cases for their eligibility as follows: “*Community financing shall, in principle, not be used for paying taxes, duties or charges in beneficiary countries.*”

6. INSTRUMENT FOR NUCLEAR SAFETY COOPERATION (INSC)

6.1 Delivery against the declared objectives

The Instrument for Nuclear Safety Cooperation (INSC) provides for the continuation of actions undertaken by the Commission in the field of nuclear safety and safeguards which took place between 1991 and 2006 under the TACIS nuclear safety programmes. Although the scope and implementation provisions have been adapted, the major change has been extension to other third countries engaging in nuclear installations. Jordan and Egypt are the first non-CIS countries to benefit from the new instrument. The extensive experience of the Commission services with assistance and cooperation on nuclear safety and safeguards has been taken into account in the drafting of the new INSC and the transition has been very smooth.

The Strategy Paper 2007-2013 and Indicative Programme 2007-2009 were submitted in due time and discussed with Member States representatives within the INSC Committee and later adopted by the Commission. Furthermore, the Commission adopted a Communication to the Parliament and the Council ‘Addressing the International Challenge of Nuclear Safety and Security’²². Implementation of the projects under the Annual Action Programme (AAP) for 2007 has started. Armenia and Ukraine have signed the relevant Financing Agreements and projects for improving the safety at the Medzamor Nuclear Power Plant are in the tendering phase. Russia has not signed the Financing Agreement related to AAP2007 and a new framework for cooperation is to be defined with this country. The Commission is the largest contributor to the Chernobyl international funds. Disbursements to these funds have already taken place under the INSC²³. Due to major additional costs in important projects which are entering the construction phase the Commission financing will be required in future to ensure their completion.

6.2 Implementation issues and adequacy of the financial envelopes

No implementation issues which might require a revision of the Regulation have been encountered.

The financial envelopes and financial provisions have been found adequate though slight adjustments might be necessary as regards the 2010-2013 profile, for frontloading some operations. However, these adjustments would be marginal and budget neutral over the period.

²² COM (2008) 312 final of 22.05.2008.

²³ A EUR 10 million grant under AAP2007 (3rd pledge — 2nd part) and another EUR 15 million under AAP2008.

6.3 Conclusion on the INSC Regulation

The transition from the previous instruments has been very smooth with the main differences being that cooperation aspects have been reinforced, including co-financing, and that the geographical coverage has been extended to cover other third countries.

The financial reference amount and provisions of the INSC are considered to be adequate.

No revision of the instrument is required at this stage.

7. INSTRUMENT FOR COOPERATION WITH INDUSTRIALISED AND OTHER HIGH-INCOME COUNTRIES AND TERRITORIES (ICI)

7.1 Delivery against the declared objectives

The ICI promotes cooperation with 17 industrialised and other high-income countries and territories in North America, the Asia-Pacific region and the Gulf region. The ICI has a wider scope than the former instrument for cooperation with industrialised countries (Council Regulation 382/2001), which was confined to six countries and covered a more limited range of activities.

Based on Article 181a of the Treaty, the ICI contributes to fostering relations between the Community and countries and territories that often share similar values, are important political and trading partners, and play an active role in multilateral fora and global governance.

The actions provided for under the aegis of the ICI support the strategic objectives of the Community's external action in relation to these countries:

- advancing EU interests with our main industrialised partners on (a) key foreign policy, security and development issues; (b) economic integration, including promoting growth, trade, investment and jobs; and (c) global issues such as energy security and climate change;
- managing the existing frameworks for bilateral relations with the EU's main industrialised and high-income partners and developing these frameworks in support of EU objectives;
- advancing networking and awareness of the EU, by facilitating people-to-people exchanges and educational, scientific and academic contacts.

Specific cooperation activities have been so far organised around three main priority areas:

(1) Public diplomacy and outreach. The key objectives are to enhance the profile of the EU, and to promote better understanding of Community action and positions in partner countries. To achieve these objectives, the network of EU Centres has been strengthened, support is provided to public policy think-tanks and research institutes, and targeted events are organised in partner countries.

(2) Economic partnership and business cooperation. The cooperation activities contribute to the strategic objective of strengthening the presence of European companies in key markets. In particular, they should facilitate market access for European companies, including small and medium-sized enterprises. The range of services provided to European companies under long-standing business cooperation programmes has been expanded, in light of experience.

(3) People-to-people links. The main goals are to enhance mutual understanding between cultures and facilitate the exchange of knowledge. To this end, the main initiatives are to strengthen cooperation in the field of education and promote civil society dialogues.

In conclusion, the ICI has provided a flexible basis to develop cooperation with a wider number of industrialised and high-income territories, and to extend this cooperation to new areas, in particular people-to-people links and education cooperation.

As from 2011, the ICI will also incorporate the support to the development of transatlantic methods for handling global challenges, which is now carried in the form of a Pilot Project started in 2007 under the Parliament's initiative. The scope of the current Regulation can cover this activity without any modification.

7.2 Implementation issues and adequacy of the financial envelope

The ICI is implemented in the context of multiannual cooperation programmes and annual action programmes. The first multiannual programme 2007-2010 will be adjusted in 2009 (mid-term review of multiannual programmes as set out in Article 5(2).) to open an External Cooperation Window for industrialised countries in the context of the new programme Erasmus Mundus (2009-2013).

No particular difficulty has been encountered in the implementation of the ICI which would point to a need for amendment.

The financial envelope is tight but it is deemed adequate as long as no further activities have to be financed. For that reason, the incorporation of the Pilot Project "Transatlantic methods for handling global challenges" in 2011 will require about EUR 1 million per year over the rest of the period 2011-2013. This small increase does not require a modification of the reference amount for the industrialised countries. The scope of the current Regulation can cover this activity without any modification.

7.3 Conclusion on the ICI Regulation

The ICI has proved an effective and flexible instrument to develop cooperation with industrialised and high-income countries/territories. No amendment is required as regards the cooperation with this group of countries, but a slight increase of the budget will be necessary to take into consideration the incorporation of the Pilot Project on transatlantic methods for handling global challenges. A separate financial envelope will be added to the amended ICI Regulation which concerns only the geographical extension to the DCI countries.