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REPORT

on the proposal for a Council regulation creating the Rapid Reaction Facility
(COM(2000) 119 – C5-0272/2000 – 2000/0081(CNS))

Committee on Foreign Affairs, Human Rights, Common Security and Defence
Policy

Rapporteur: William Newton Dunn

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members, except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Cooperation procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

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PROCEDURAL PAGE

By letter of 31 May 2000 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty, on the proposal for a Council regulation creating the Rapid Reaction Facility (COM(2000) 119 – 2000/0081 (CNS)).

At the sitting of 13 June 2000 the President of Parliament announced that she had referred the proposal to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible and the Committee on Budgets for its opinion (C5-0272/2000).

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed William Francis Newton Dunn rapporteur at its meeting of 24 May 2000.

At its meeting of 7 November 2000 the committee decided to include in its report the following motion for resolution:

- B5-0515/2000 by John Cushnahan, Giorgios Dimitrakopoulos, Avril Doyle, William Newton Dunn, Jas Gawronski, Brigitte Langenhagen, John McCartin, Thomas Mann, Ria Oomen-Ruijten, Arie Oostlander, Doris Pack, Bartho Pronk, Lennart Sacrédeus, José Salafranca Sánchez-Neyra and W.G. van Velzen, on *Crisis management*, referred to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible on 4 September 2000.

It considered the Commission proposal and draft report at its meetings of 11 July, 19 September, 7 November and 4 and 5 December 2000.

At the latter meeting it adopted the draft legislative resolution unopposed, with 1 abstention.

The following were present for the vote: Elmar Brok, chairman; Baroness Nicholson of Winterbourne and Catherine Lalumière, vice-chairmen; William Francis Newton Dunn, vice-chairman and rapporteur; Alexandros Baltas, Andre Brie, John Walls Cushnahan, Pere Esteve, Michael Gahler, Alfred Gomolka, Magdalene Hoff, Jan Joost Lagendijk, Hugues Martin, Raimon Obiols i Germa, Arie M. Oostlander, Hans-Gert Poettering, Jacques F. Poos, José Ignacio Salafranca Sánchez-Neyra, Jacques Santer, Jürgen Schröder, Ioannis Souladakis, Gary Titley, Geoffrey Van Orden, Paavo Väyrynen, Jan Marinus Wiersma, Matti Wuori, Christos Zacharakis, Vitalino Gemelli (for Gerardo Galeote Quecedo), Ilkka Suominen (for Ursula Stenzel) and Andrew Nicholas Duff (for Bertel Haarder).

The opinion of the Committee on Budgets is attached.

The report was tabled on 7 December 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a Council regulation creating the Rapid Reaction Facility (COM(2000) 119 – C5-0272/2000 – 2000/0081(CNS))

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)

Recital 1

(1) The aim of preserving peace and liberty is expressed in the preamble to the Treaty establishing the European Community.

(1) In several parts of the world the Community is pursuing policies of development aid, macro-financial aid, economic, regional and technical cooperation aid, reconstruction aid, aid for refugees and displaced persons, and support measures for consolidating democracy and the rule of law, respect for human rights and basic freedoms.

Justification:

See justification for Amendment 17.

(Amendment 2)

Recital 2

(2) The Community is concerned that the spread of crises affecting political and social stability and security jeopardise not only international peace and security but also the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law.

(2) The aims of assistance and cooperation programmes and/or the conditions for their proper implementation may be threatened or directly affected by the emergence of crisis or conflict situations, and by imminent or actual attacks on public order, security and particularly personal safety.

Justification:

See justification for Amendment 17.

(Amendment 3)

¹ OJ C 311, 31.10.2000, p. 213.

Recital 3

(3) In the interests of fostering sustainable economic and social development, there is a need to prevent the crises from spreading or escalating into armed conflicts.

(3) So there is a need to set up machinery, in support of present Community policies and programmes, to enable the Community to take urgent action to help re-establish or safeguard normal implementing conditions for the policies in hand, in order to preserve their effectiveness.

Justification:

See justification for Amendment 17.

(Amendment 4)
Recital 3a (new)

(3a) Priority must be given to non-military crisis management including adequate budgetary funding.

Justification:

Parliament has always preferred non-military means of crisis management. A minimum of coherence could then imply that this could also be the case for the RRF.

(Amendment 5)
Recital 5

(5) The Report of the Presidency on non-military crisis management attached to the above conclusions further explains that ‘Rapid financing mechanisms such as the creation by the Commission of a Rapid Reaction Fund should be set up to allow the acceleration of the provision of finance to support EU activities, to contribute to operations run by other international organisations and to fund NGO activities, as appropriate’.

(5) The machinery must in particular make it possible, by means of fast-track decision-making mechanisms, to rapidly mobilise and commit financial and other resources that are available under these external policies or programmes.

Justification:

See justification for Amendment 17.

(Amendment 6)
Recital 6

(6) There is a need, in support of existing Community programmes relating to cooperation with third countries, to undertake rapid and efficient action to project security and stability beyond the borders of the European Union wherever the lives and physical integrity of women and men and the respect for human solidarity depend on its intervention.

(6) The Council and Commission are responsible for ensuring the consistency of the external measures pursued by the European Union, in its policies for foreign relations and security, in the economic, social and environmental field, for development and equal opportunities between men and women.

Justification:

See justification for Amendment 17. Parliament has traditionally included protection of the environment and gender equality in its wider security objectives.

(Amendment 7)
Recital 7

(7) The Community's early awareness of crises and rapid response mechanisms need further development with a view to permitting rapid deployment of financial and other resources to prevent crises from spreading or escalating into armed conflicts.

Deleted

Justification:

Superfluous.

(Amendment 8)
Recital 8

(8) There is a need to make available at short notice, in the event of security-related crisis situations, accelerated decision-making mechanisms for specific and immediate interventions limited in time, and acting, if so required, as precursors of regular Community instruments to which action can thereafter be transferred.

Deleted

Justification:

Superfluous.

(Amendment 9)
Recital 9a (new)

(9a) The Rapid Reaction Facility should be supported by the setting up of civil headline goals as well as by the establishment of a European Public Security Force.

Justification:

This is also a repeated demand of the European Parliament for civil crisis management.

(Amendment 10)
Recital 9b (new)

(9b) The Rapid Reaction Facility should be supported by a specific and properly trained financial management and implementation cell.

Justification:

The Commission needs personnel with the right mind-set and financial and contractual competence in order to ensure that financial policy decisions requiring an urgent response are effectively executed. The proposed regulation is purely about funding procedures, to enable the Union to respond more rapidly and efficiently in providing immediate financing for urgent operations related to crisis management. It is not appropriate to insert new policy measures into an essentially technical regulation.

(Amendment 11)
Recital 10

(10) Activities covered by the ECHO regulation, Council Regulation (EC) No 1257/96, should not be funded under this Regulation.

(7) Activities covered by the ECHO regulation, Council Regulation (EC) No 1257/96, should not be funded under this Regulation.

Justification:

Number change only.

(Amendment 12)

Recital 11

(11) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, measures for the implementation of this Regulation should be adopted by use of the advisory procedure provided for in Article 3 of that Decision.

Deleted

Justification:

Superfluous.

(Amendment 13)

Recital 12

(12) There is a need for maximum transparency in the implementation of the Community's financial assistance as well as for proper control of use of appropriations.

(8) There is a need for maximum transparency in the implementation of the Community's financial assistance as well as for proper control of use of appropriations.

Justification:

Number change only.

(Amendment 14)

Recital 12a (new)

(12a) Expenditure on the type of interventions under this Regulation was not foreseen in the financial perspective agreed in the context of the IIA of 6 May 1999, in so far as they are not already covered by the expenditure foreseen for CFSP; consequently, these interventions will have to be financed within Heading 4 or, if this is not possible, by an appropriate revision of the financial perspective; Parliament must be consulted on each action to be financed under the facility.

Justification:

The proposed recital is self-explanatory. The legislative authority needs to be aware of the

fact that new actions also require new financing.

(Amendment 15)

Recital 13

(13) The protection of the Community's financial interests and the fight against fraud and irregularities should constitute an integral part of this Regulation.

(9) The protection of the Community's financial interests and the fight against fraud and irregularities should constitute an integral part of this Regulation.

Justification:

Number change only.

(Amendment 16)

Recital 14

(14) The Treaty does not provide, for the adoption of this Regulation, powers other than those of Article 308,

(10) The Treaty does not provide, for the adoption of this Regulation, powers other than those of Article 308,

Justification:

Number change only.

(Amendment 17)

Article 1(1)

1. The purpose of this Regulation, in support of existing Community programmes relating to cooperation with third countries, is to lay down ***procedures for establishing*** a rapid, efficient and flexible mechanism (hereinafter referred to as 'the Rapid Reaction Facility') designed to respond to situations of crisis or the emergence of crisis ***and to provide immediate financing for non-combat activities related to urgent operations of crisis management and conflict prevention, with a view to fostering international peace and security, the principles of liberty and democracy, respect for human rights and fundamental freedoms and the rule of law, as a basis for economic and social development in those third countries.***

1. The purpose of this Regulation, in support of existing Community ***policies and*** programmes relating to cooperation with third countries, is to lay down a rapid, efficient and flexible mechanism (hereinafter referred to as 'the Rapid Reaction Facility') designed to respond to ***urgent*** situations of crisis or the emergence of crisis.

Justification:

To improve the proposed wording by adding a reference to current assistance and cooperation programmes.

(Amendment 18)
Article 1(2)

2. The Rapid Reaction Facility ***shall be*** triggered ***by situations*** of crisis or emerging crisis, ***such as circumstances of growing violence destabilising*** law and order, ***breaches of the peace, outbreaks of fighting, armed conflicts, massive population movements, or exceptional circumstances with security-related implications and concerns, or major environmental catastrophes threatening safety, stability and security.***

2. The Rapid Reaction Facility ***may be*** triggered ***when there arise, in the recipient countries concerned, a situation*** of crisis or emerging crisis, ***a situation threatening*** law and order, ***public security and public safety, or a situation threatening to degenerate into armed conflict or to destabilise the country and if that situation is likely to undermine the benefits of the assistance and cooperation policies and programmes, their effectiveness and/or the conditions for their proper implementation.***

Justification:

To improve the proposed wording by adding a reference to current assistance and cooperation programmes.

(Amendment 19)
Article 1(3)

3. The Rapid Reaction Facility builds upon ***the scope of intervention*** of existing Community regulations, with the exception of ECHO regulation, Regulation (EC) No 1257/96. ***Its specific added-value is represented by the rapidity of interventions in situations of high tension and by the possibility of mixing different instruments of intervention in order to achieve a comprehensive and coherent action in security-related emergencies. If actions provided for by this Regulation fall under the scope of other regulations, this Regulation shall apply only if:***

3. The Rapid Reaction Facility builds upon ***the objectives*** of existing Community regulations ***and programmes listed by way of example in Annex I***, with the exception of the ECHO regulation, Regulation (EC) No 1257/96.

Actions that normally fall within the objectives of the regulations listed by way of example in Annex I may be taken under this Regulation if:

(a) the action is intended to be immediate and ad hoc to meet the most

(a) the action is intended to be immediate and ad hoc to meet the most

urgent safety and security-related requirements of societies and peoples in third countries; and

(b) the action is limited in time, as further specified in Article 7.

urgent safety and security-related requirements of societies and peoples in third countries; and

(b) the action is limited in time, as further specified in Article 7.

Justification:

To improve the proposed wording by adding a reference to current assistance and cooperation programmes, and a reference to Annex I.

(Amendment 20)
Article 1(3)(ba) (new)

(ba) If necessary the financing of the action can be ensured by a mobilisation of the appropriations available in the emergency reserve (B7-9).

Justification:

A link with Heading 6 of the Financial Perspectives should be established as well as the possibility of having access whenever necessary to the emergency reserve.

(Amendment 21)
Article 2(1)

1. The principal objectives of actions under the Rapid Reaction Facility shall be, in situations of crisis or emerging crisis, the preservation or re-establishment of conditions of public order, security and safety, the facilitation of dialogue, conciliation and mediation among different groups within a society and the fight against human-rights abuses, ethnic, religious, and gender discrimination, and violence.

1. Under the Rapid Reaction Facility it shall be possible to undertake, in situations of crisis or emerging crisis, civil operations to preserve or re-establish the conditions of stability required for proper and successful implementation of the aid, assistance and cooperation policies and programmes in Article 1 and fulfilment of the objectives assigned to them.

Justification:

Appreciably improves the wording.

(Amendment 22)
Article 2(2)

2. Interventions financed under this Regulation may comprise any non-combat activities aimed at counteracting or resolving emerging crises and serious threats or outbreaks of conflict, all logistical measures necessary for the planning, implementation, monitoring and auditing of such interventions, including information and communication management, technical assistance and training, the purchase and/or delivery of essential products and equipment, safe transport and all administrative expenditure related to such measures as well as the measures necessary to strengthen the Community's coordination with Member States and other donor countries, international organisations, non-governmental organisations (NGOs) and their representatives.

Deleted

Justification:

Superfluous.

(Amendment 23)
Article 2a(1) (new)

1. Actions taken under the Rapid Reaction Facility shall be adopted by the Commission in accordance with the procedures laid down in this Regulation. They shall be implemented by the Commission in accordance with current budget and other procedures, in particular those under Articles 116 and 118 of the Financial Regulation applicable to the general budget of the European Communities.

Justification:

This new article describes the procedure for actions under the Rapid Reaction Facility.

(Amendment 24)
Article 2a(2) (new)

2. When the Commission intends to take action under this Regulation it shall

without delay so inform the Council and European Parliament in order to ensure that the European Union's external activities are consistent.

Justification:

Consultation of Parliament is essential.

(Amendment 25)
Article 4(6)

6. *The Commission will inform the Committee established in Article 8 of the choice of implementing entity and the reasons for such choice.* ***Deleted***

Justification:

To eliminate the reference to comitology in the original Commission proposal.

(Amendment 26)
Article 5

Interventions covered by this Regulation shall be decided by the Commission in accordance with the procedures laid down in this Regulation. ***Deleted***

They shall be implemented by the Commission in accordance with the budgetary and other procedures in force, including those laid down in Articles 116 and 118 of the Financial Regulation applicable to the general budget of the European Communities.

Justification:

Considered superfluous.

(Amendment 27)
Article 6a (new)

6a. So far as is possible, the Commission shall ensure the integration of the authorities and structures of the

country concerned.

Justification:

The agreement of the beneficiary countries is considered indispensable for implementing the actions under this Regulation.

(Amendment 28)

Article 7(1)

1. ***No single intervention to be funded under this Regulation may receive Community contributions exceeding EUR 12 million.***

1. ***The Community shall each year set a global ceiling for funding action under this Regulation.***

Justification:

It is better to provide an annual global ceiling for funding action than set a maximum for each intervention.

(Amendment 29)

Article 7(2)

2. ***The implementation period of any intervention under this Regulation may not exceed a limited period up to nine months.***

2. ***The Commission shall decide the implementation period for any intervention.***

Justification:

The period for implementing any intervention will depend on the circumstances.

(Amendment 30)

Article 7(3)

3. Should it appear, in exceptional cases, that the implementation period is insufficient to achieve the objectives laid down in Article 1(1) on account of the specific nature of the crisis concerned or its intensity, the Commission ***shall present a report to the Committee established in Article 8, at the latest one month before the expiry of the original action. Thereafter the Commission may present to the Committee a draft for an*** extension of the intervention and related financial requirements concerning the same crisis. This further

3. Should it appear, in exceptional cases, that the implementation period is insufficient to achieve the objectives laid down in Article 1(1) on account of the specific nature of the crisis concerned or its intensity, the Commission ***may decide on*** extension of the intervention and related financial requirements concerning the same crisis. This further intervention shall comply with the requirements of Article 1. ***The Commission shall then so inform the Council without delay.***

intervention shall comply with the requirements of Article 1.

Justification:

Consistency with Amendment 17.

(Amendment 31)
Article 8(1)

1. The Commission shall be assisted by a committee (hereinafter referred to as ‘the Crisis Committee’), composed of representatives of the Member States and chaired by the representative of the Commission. Deleted

Justification:

It is proposed to eliminate the reference to the information committee concerned.

(Amendment 32)
Article 8(2)

2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of the Decision 1999/468/EC shall apply, in compliance with Article 7(3) thereof. Deleted

Justification:

It is proposed to eliminate the reference to the information committee concerned.

(Amendment 33)
Article 9(1)

1. When adopting its rules of procedure, in accordance with Article 7(1) of Decision 1999/468/EC, the Crisis Committee shall take into account the objectives of the Rapid Reaction Facility, and in particular: Deleted

(a) the need of rapid decisions and implementation in view of the exceptional

and urgent nature of the circumstances of crisis which trigger the use of the Rapid Reaction Facility;

(b) the flexibility necessary to meet the evolving nature of the crisis.

Justification:

Consistency with previous amendment.

(Amendment 34)
Article 9(2)

2. The Crisis Committee may also discuss any other questions related to the implementation of this Regulation, in particular the arrangements for follow-up and the transfer of action, where appropriate, to other instruments once intervention under this Regulation comes to an end. Deleted

Justification:

Consistency with previous amendment.

(Amendment 35)
Article 10(1)

1. The Commission shall, on the basis of a reciprocal and regular exchange of information, including exchange of information on the spot, ensure the effective coordination of its crisis management operations with those of the Member States, in order to increase the coherence and complementarity of all interventions.

1. The Commission shall take action, including action on the spot, to ensure (I word deleted) effective coordination of the actions under the Rapid Reaction Facility with those of the Member States, in order to increase the coherence and complementarity of all interventions. To that end the Commission and the Member States shall maintain a reciprocal information system.

Justification:

Improves wording of original Article 10 but without introducing substantial elements.

(Amendment 36)
Article 10(2)

2. *In the interests of overall coherence of Community strategy for rapid response to crises with civilian instruments, the Crisis Committee may also be a forum for the exchange of information between Member States and the Commission.* Deleted

Justification:

Superfluous.

(Amendment 37)
Article 10(3)

3. The Commission shall promote coordination and cooperation with international and regional organisations.

2. The Commission shall promote coordination and cooperation with international and regional organisations. ***It shall ensure that actions under the Rapid Reaction Facility are coordinated and consistent with those of the international and regional organisations and bodies.***

Justification:

Improves wording of Article 10.

(Amendment 38)
Article 10(4)

4. The necessary measures shall be taken to give visibility to the Community's contribution.

3. The necessary measures shall be taken to give visibility to the Community's contribution.

Justification:

Number change only.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council regulation creating the Rapid Reaction Facility (COM(2000) 119 – C5-0272/2000 – 000081(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 119¹),
 - having been consulted by the Council pursuant to Article 308 of the Treaty (C5-0272/2000),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the opinion of the Committee on Budgets (A5-0392/2000),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty/Article 119, second paragraph of the Euratom Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Calls for the conciliation procedure to be initiated should the Council intend to depart from the text approved by Parliament;
 5. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 311, 31.10.2000, p. 213.

EXPLANATORY STATEMENT

1. The Cologne European Council of 3 and 4 June 1999 invited the General Affairs Council to deal thoroughly with all discussions on aspects of security, with a view to *enhancing and better co-ordinating the Union's and Member States' non-military crisis response tools*. Alongside with the adoption of a Presidency progress report on developing the Union's military crisis management capability, the Helsinki European Council of 10 and 11 December 1999 adopted another *Presidency progress report on developing the Union's non-military crisis management capability* as part of a strengthened common European policy on security and defence (see Annex IV of the Presidency Conclusions). This second report was considered as a complement to the military paper. It called on the Union to 'improve and make more effective use of resources in civilian crisis management in which the Union and the Member States already have considerable experience. Special attention will be given to a rapid reaction capability'. In particular, the *above mentioned report called explicitly for 'rapid financing mechanisms such as the creation by the Commission of a Rapid Reaction Fund'*.
2. Recently, the European Council in Feira on 19 and 20 June 2000 explicitly reaffirmed its commitment to building a Common European Security and Defence Policy capable of reinforcing the Union's external action *through the development of a military crisis management capability as well as a civilian one*, in full respect of the principles of the United Nations Charter. The European Council also welcomed the willingness of the Commission to contribute to civilian crisis management within its spheres of action.

II. THE COMMISSION'S PROPOSAL

3. As the Commission itself states, recent conflicts in Africa, in the Balkans, and in the Caucasus have shown that *the EU possesses a wide range of humanitarian, economic, financial and civilian resources. Many of them belong to the First Pillar and are therefore under the responsibility of the Community*. The Commission includes among them: contribution to alleviation of financial crises, human rights work, election-monitoring, institution-building, media support, border management, humanitarian missions, de-mining operations, police training and the provision of police equipment, civil emergency assistance, rehabilitation, reconstruction, pacification, military personnel demobilisation and resettlement, and mediation. For the Commission, the problem has been that though these resources exist, despite the good track record of ECHO, the EU has not always been able to deploy them rapidly or effectively enough.
4. On the other hand, the Commission also notes that *EU CFSP funds provide financing for strictly political, diplomatic and security-related actions*, but different funding facilities are needed for the broader civilian activities which address security concerns and which can also be drawn on in situations of crisis. Following the Commission's proposal, they must be tailored to the particular requirements of crisis prevention and management: they must be quick to mobilise and be flexible.
5. In this context, the Commission's proposal intends *to sharpen the performances of Community instruments and enable the Community to promptly resort to them in case of need*. As stated in Article 1 of the proposal, 'the purpose of this Regulation, in support of

existing Community programmes relating to co-operation with third countries, is to lay down procedures for establishing a rapid, efficient and flexible mechanism ... designed to respond to situations of crisis or the emergence of crisis and to provide immediate financing for non-combat activities related to urgent operations of crisis management and conflict prevention, with a view to fostering international peace and security, the principles of liberty and democracy, respect for human rights and fundamental freedoms and the rule of law, as a basis for economic and social development in those third countries’.

6. According to the Commission’s proposal, the RRF will have *no geographical limitation*, and it is intended to be used where situations call for:
 - ✓ *Rapid* intervention in situations of emerging crisis, in crisis or conflict situations, or to address the immediate needs in the aftermath of conflicts.
 - ✓ Interventions with a *short life span*. (If the actions cannot be completed within the limited time frame for RRF interventions, they should be replaced by or integrated into regular activities undertaken within existing geographic or thematic programmes).
 - ✓ *A mixture of instruments* (e.g. sending a Special Envoy while providing civilian police expertise and civil protection measures).
7. The RRF builds upon the *scope of intervention of existing Community regulations*, with the exception of ECHO regulation, and *its specific added-value is represented by the rapidity of interventions in situations of high tension and by the possibility of mixing different instruments* of intervention in order to achieve a comprehensive and coherent action in security-related emergencies. If actions provided for by RRF Regulation fall under the scope of other regulations, this RRF Regulation shall apply only if the action is intended to be immediate and ad hoc to meet the most urgent safety and security-related requirements of societies and peoples in third countries, and if the action is *limited in time (up to nine months)*.

III. SCOPE OF THE RAPID REACTION FACILITY

8. Given the mixed nature of the different actions and initiatives, which could result from the variety of the existing Community regulations, it is not easy to establish in advance the real scope of the Rapid Reaction Facility. To this respect, the European Commission could have been much more precise by presenting a detailed list of possible actions to be undertaken under the umbrella of the new RRF Regulation. Nevertheless, a careful consideration of the existing Regulations allows us to foresee at least the following possible future scenarios related to crisis management activities:
 - On the basis of OBNOVA Regulation 1628/96 (legal base: Article 308 EC):
 - De-mining
 - Demobilisation and reintegration
 - Refugee return assistance
 - Border control
 - Support for sanctions enforcement
 - On the basis of PHARE Regulation 3906/89 as amended as well as Regulation 622/98 (legal

base: Article 308 EC):

Local government and administration strengthening
Judicial and legal framework training
Elections support
Police liaison
Prison facility rehabilitation

- On the basis of TACIS Regulation 2053 (legal base: Article 308 EC):

Customs training and exchanges

Parliamentary drafting support
Election training to the media
NGO conflict resolution training

- On the basis of MEDA Regulation 1488/96 (legal base: Article 308 EC):

Immigration officer training
Mine impact survey
Antiterrorism co-operation.

- On the basis of Regulation 976 /99(legal base: Article 308 EC):

Human rights initiatives in non developing countries.

Interestingly, other crisis management activities could be based on Article 179 EC:

- On the basis of Regulation 443/97(legal base: Article 179 EC):
Operations to aid uprooted people in Asia and Latin American developing countries.

- On the basis of Regulation 975 /99(legal base: Article 179 EC):

Human rights initiatives in developing countries.

From your Rapporteur's point of view, all those possible scenarios and measures fit with the principal objectives of the Rapid Reaction Facility established in Article 2 of the Commission's Regulation proposal. Furthermore, the preceding list illustrates that Article 308 has already been the legal basis for most of the different crisis management activities undertaken so far. Moreover, Article 179 EC has also played and should undoubtedly continue to play an important role not only in Asian and Latin American developing countries, but as well on a number of other crisis management activities related to human rights everywhere or to the development co-operation policy in developing countries.

IV. THE EUROPEAN PARLIAMENT POINT OF VIEW

9. To a certain extent, the European Parliament has already made its political choice. On one hand, the *EP has always made a clear distinction between non-military means of crisis management (which it has always preferred) and military means*. On the other, in its Resolution of 15 June 2000 on the establishment of a common European security and defence policy with a view to the European Council in Feira, the European Parliament once more stressed that *'priority must be given to non-military crisis management'*.

10. This resolution contains the Parliament's philosophy on non-military crisis management. In general terms, the Parliament asks for *devoting greater financial resources* across the entire range of the different policy options in order for CESDP to be both credible and effective. As far as the current proposal is concerned, in its resolution the EP has welcomed both the Commission's initiatives to give it a more active role in the field of crisis prevention and management, and also those undertaken by the Council with a view to developing a European Union non-military crisis management capacity based in particular on a *rapid reaction facility with adequate budgetary funding*.
11. The European Parliament has already given its view on the possible scope and nature of this kind of new instrument in its Resolution of 15 June, that the European Union already has several instruments available for non-military crisis prevention and management, including:
- (a) financial instruments (ECHO, PHARE, TACIS, etc.) which make it possible to carry out urgent operations and structural or reconstruction operations;
 - (b) preventive diplomacy measures (stability pacts),
 - (c) Policy Planning and Early Warning Unit, which must enable crises to be identified at an early stage;
 - (d) the committee responsible for the civilian aspects of crisis management,
 - (e) democratisation measures, which can be carried out jointly with the Council of Europe and OSCE (monitoring of elections, legal assistance, etc.)
 - (f) intervention operations,
 - (g) operations to assist with mine-clearing, policing, surveillance of conflict zones such as that carried out by the European Community Monitoring Mission, monitoring of sanctions, with the assistance of the WEU where appropriate,
 - (h) guaranteed access to natural resources and the elimination of poverty as important elements of conflict prevention.
12. Finally, it is important to recall that the EP believes that these measures could usefully be supplemented by the setting of major common objectives (headline goals), including civil protection, as a counterpart to those set in the military field; by setting in particular a headline goal concerning the establishment of a European public security force that can be rapidly mobilised and deployed in law and order operations for which military units are not suited; and by following up the European Parliament's recommendation on the European Civil Peace Corps as a matter of urgency.
13. Concerning specifically the Commission's proposal for a Council Regulation creating the Rapid Reaction Facility (RRF), some very important legal, institutional and budget questions are still pending:
- A. The question of the most appropriate legal base: two different options, and the possibility for splitting up and transforming the Commission initial proposal in two different, almost identical Regulations:**
- 1) *As a first option, Article 308 EC could be the 'de minimis' acceptable legal base for the Rapid Reaction Facility Regulation.* The European Commission itself proposes the RRF Regulation to be based on Article 308 EC (ex 235): 'Its scope covers any Community intervention related to security crisis, flanking or supporting EU activities in the areas of ESDP. If actions could be funded by other EU facilities, the Regulation could apply only if

the action was urgent and limited in time and could not be undertaken with sufficient speed and coherence under existing instruments’.

Even if unsatisfactory to a certain extent, it could be argued that this legal base would at least preserve the Communitarian character of most of the measures to be undertaken in civil crisis management. Although it is true that Article 308 does not provide a real and sufficient say for the European Parliament, it could perhaps be temporarily accepted, but only until a new and more acceptable legal basis based on codecision is obtained. Furthermore, there is no doubt about the applicability of Article 308 EC to this case. This article has already been used to found macro-financial assistance, contribution to international funds and projects, to foster democracy and the rule of law in third countries, etc. and because Article 308 EC constitutes already the legal basis of a number of other existing Community instruments (such as PHARE, MEDA, TACIS, OBNOVA or Regulation 976/99 on ‘human rights for no developing countries’) which the new RRF regulation is intended to support and reinforce (See point 8 above).

2) *Even recognising that ‘prima facie’ Article 308 constitutes in itself an interim but important step forward, yet a double Regulation scenario could be also considered as an alternative approach:*

(a) *A **first Regulation** would cover all those countries, activities and programmes directly related to Development policy.* Its legal base would be *Article 179 EC (ex-130 W)*. As far as the scope of this Regulation is concerned, it would be up to the Commission to clearly determine the cases to which codecision should be then applied, taking into consideration the experiences of the past crisis management activities as well as the legal implications deriving from the different existing Community regulations upon which RRF is to be built. In fact, in the absence of any other specific legal base (which the EP has proposed to the IGC), **Article 179 EC would be the uniquely acceptable legal base for this first RRF Regulation**. Not least because of the fact that it implies **codecision**, but also because of the need to introduce a **minimum of coherence** as provided for in Article 3 of the Treaty on European Union in the framework of a global foreign policy for the Union. As is well known, from the EP point of view, this includes trade and development policy (including the EDF), humanitarian aid (ECHO, with Regulation 1257/96 based on Article 179 EC) and the CFSP itself, including defence and human rights (where Regulation 975/99 -based on Article 179 EC- applies for ‘human rights in developing countries’). Some other related Treaty provisions are equally based on Article 179 EC, for instance Regulation 443/97 on operations to aid uprooted people in Asian and Latin American developing countries. Surprisingly, the Commission proposal does not take in consideration a very relevant fact which the Feira European Council itself has already underlined: ‘The inventories which have been drawn up clearly show that Member States, the Union, or both, have accumulated considerable experience or have considerable resources in a large number of areas, *a number of which are resources already being used in development co-operation*’¹ In this respect, it should not be forgotten that following the Commission’s own wording the Rapid Reaction Facility, *‘built upon the scope of existing Community Regulations, will act therefore as complementary instrument to humanitarian interventions and to other tools, which can be deployed in a crisis or post-conflict situation, accompanying relief action and preceding rehabilitation and development.* It should fill a gap in the existing range of

¹ Appendix 3 of the Study on concrete targets on civilian aspects of crisis management, par. A ‘in fine’.

instruments available at short notice in a crisis situation, providing for accelerated interventions and acting as precursor of measures to be taken under regular instruments and to which intervention can be thereafter transferred'. From this point of view, this repeated reference to the instruments and activities deriving from Development policy should be also reflected in the institutional field via Article 179 and codecision.

- (b) *A second RRF Regulation would cover the remaining countries, activities and programmes that are not directly connected to Development policy.* The legal base would be *Article 308 EC (ex-235)* as proposed by the European Commission for reasons already referred to (see Point 13 A 1).

Should this double scenario succeed, *the final outcome would be very similar to the 'human rights' case*, where Regulation 975/99 – based on Article 179 EC – applies for 'human rights in developing countries' and Regulation 976/99 – based on Article 308 EC – applies for 'human rights' in the rest of the world. Like this, instruments foreseen in the two new, almost identical RRF Regulations could be perfectly combined to deal with any given civil crisis management wherever requested.

Reference to *Article 23 EU (ex Article J.13)* as another possible legal base for the RRF Regulation should not even be considered. It totally neglects the roles of both the European Commission and the European Parliament as well as the Communitarian nature of most of the actions to be undertaken.

B. An institutional opportunity in the framework of the current IGC negotiations:

The European Parliament should neither give up nor miss any opportunity to reinforce its role in the legislative process through the codecision procedure. For this reason, the Parliament has recently asked the current IGC for a new and specific legal basis to be applied in cases like this.

In the Presidency's report to the Feira European Council some references have been made about the areas currently covered by Article 308 of the TEC. This report recognises that this Article is used for the adoption of acts or measures within the existing competence of the European Community for which there is no specific legal basis. From the Presidency point of view, experience has shown that in certain areas (in particular the creation of decentralised agencies with legal personality and a mandate to pursue one of the objectives of the Treaty; economic, financial and technical co-operation with non-developing third countries; and the energy sector) frequent use has been made of that Article.

Following the Presidency's Report, the question has been raised whether the repeated use of the Article in those areas would not justify the creation of new specific legal bases – without any transfer of competence – for which use of qualified majority could be envisaged. Moreover, though opinions are still divided, there is apparently a degree of willingness to examine this suggestion further, particularly as regards the creation of specialised agencies (on the basis of the codecision procedure), and economic, financial and technical co-operation with non-developing third countries; two draft Articles on these two questions are being considered.

From a purely institutional point of view, it would be perfectly possible to put pressure on the Council by choosing the second option referred to above (see Point 13 A 2) without 'a priori'

delaying significantly the approval of both RRF Regulations. On one hand, because it is still possible to add new items to the Agenda of the IGC. On the other, because the IGC itself must be finished before the end of this year. The internal institutional mechanism is very well known and does not require further explanation.

Nevertheless, it is more than doubtful whether the final outcome of the IGC would really meet the EP's requirements (via a new Treaty provision or via an 'ad hoc' inter-institutional agreement). In addition to that, undertaking such an approach could risk a major and unnecessary conflict with the Council precisely in the decisive phase of the IGC when even bigger demands of the EP are at stake.

C. The budget procedure: for a new Title 'Humanitarian Aid and Emergency Interventions'.

The Commission's proposal is to spend 40 million Euro per year (30 million Euro during the first year of application). Recently, and as requested by the Foreign Affairs, Human Rights, Common Security and Defence Policy Committee, the Committee on Budgets has voted in favour of maintaining (with a 'pm') the budget line for the Rapid Reaction Facility. From this Rapporteur's point of view, and in order to assure a minimum of coherence among the different positions actually being submitted by our Committee in the framework of the Reports by Messrs. Titley and Haarder, the following guidelines should be maintained as far as the Rapid Reaction Facility is concerned:

- A specific budget line for the Rapid Reaction Facility should be included within the Chapter actually devoted to Humanitarian Aid (B7-21) under the new Title 'Humanitarian Aid and Emergency Interventions'.
- The Rapid Reaction Facility should have access to the emergency reserve provided for in Chapter B7-9 (Heading 6 of the Financial Perspectives)
- The Commission's initial proposal to spend 40 million Euro per year (30 million Euro during the first year of application) should not be initially put into question, even if recognising that it allows in fact for only two possible complete interventions (costing a maximum of 12 million Euro each).
- Any other expenditure related to non-Communitarian crisis management activities but directly deriving from the second pillar should follow the appropriate procedure under the current CFSP financial regulations and agreements.

CONCLUSIONS

1. The political opportunity of establishing a new Regulation on the Rapid Reaction Facility is not in question, and has been assumed by the three Institutions, even if there are some aspects that still deserve careful consideration. The Parliament has already given a preliminary positive view in its above-mentioned Resolution of 15 June 2000.
2. As far as the legal base of the Commission's Regulation proposal is concerned, the first option (Article 308 EC) is preferable and should be maintained. It is then recommended to accept the legal base proposed by the Commission.
3. If the alternative approach (based on Article 179 EC) were to be followed, the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy should ask as

soon as possible for the Opinion of the Committee on Legal Affairs and the Internal Market as provided for in Article 63 par. 2 of the European Parliament's Rules of Procedure. Nevertheless, this second alternative is not recommended as it could risk a major and unnecessary conflict with the Council precisely in the decisive phase of the IGC.

4. With reference to the Budget, the Commission should, in particular, modify the 'fiche financière' of the proposed Regulation in order to introduce a new title 'Humanitarian Aid and Emergency Interventions' as well as the other related budget considerations and amendments referred to above.

MOTION FOR A RESOLUTION

pursuant to Rule 48 of the Rules of Procedure by John Cushnahan, Giorgios Dimitrakopoulos, Avril Doyle, William Newton Dunn, Jas Gawronski, Brigitte Langenhagen, John McCartin, Thomas Mann, Ria Oomen-Ruijten, Arie Oostlander, Doris Pack, Bartho Pronk, Lennart Sacrédeus, José Salafranca Sánchez-Neyra and W.G. van Velzen

on crisis management

The European Parliament,

- having regard to the Conclusions of the Feira Summit,
- having regard to the Commission's proposal for a non-military Rapid Reaction Facility,
- A. whereas the 1999 Helsinki mandate dictated a need for non-military crisis management forces,
- B. whereas the intended police force is formally under the jurisdiction of the Second Pillar of the Treaty, the establishment of the civilian task force would overlap with the competencies of the Commission,
- C. whereas a Policy Planning and Early Warning Unit will assess areas of possible conflict and instability,
- D. believing that not all crisis situations require a solely military response,
- 1. Welcomes the Council's determination to improve the effectiveness of the Union's capacity to respond to crises and stresses the progress achieved in the field of civilian aspects of crisis management;
- 2. Welcomes the commitment to establish a 5,000 strong standby civilian police force for conflict prevention and crisis management operations and endorses the intention to deploy 1,000 of these within 30 days;
- 3. Recognises the need for co-ordination, nevertheless regrets that the model of co-ordination agreed in Feira might undermine common EU competence's established in the Treaty, therefore, urges the Council to ensure that the EP is fully informed in this regard;
- 4. Underlines that the need to overcome complexities of the institutional relationship with regards to foreign and security policy through full collaboration between the High Representative and the Commission.

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the proposal for a Council regulation creating the Rapid Reaction Facility
(COM(2000) 119 – C5-0272/2000 – 2000/0081(CNS))

Draftsman: Jutta D. Haug

PROCEDURE

The Committee on Budgets appointed Jutta D. Haug draftsman at its meeting of 6 June 2000.

It considered the draft opinion at its meeting of 18 and 19 July 2000.

At this meeting it adopted the amendments below unanimously.

The following were present for the vote: Terence Wynn chairman; Bárbara Dührkop Dührkop vice-chairman; Jutta D. Haug draftsman; Herbert Bösch (for Göran Färm), Jean-Louis Bourlanges, Kathalijne Maria Buitenweg, Joan Colom i Naval, James E.M. Elles, Salvador Garriga Polledo, Neena Gill, Catherine Guy-Quint, Armin Laschet, John Joseph McCartin, Jan Mulder, Heide Rühle, Luciana Sbarbati, Esko Olavi Seppänen (for Francis Wurtz), Kyösti Tapio Virrankoski and Ralf Walter.

SHORT JUSTIFICATION

What are the objectives of the proposed facility?

The Commission proposes to base the RRF on a regulation (Art.308 – consultation of EP). This will set up a Community mechanism to respond to situations of crisis in third countries and to provide immediate financing for non-combat activities related to crisis management and conflict prevention. It could be triggered in situations involving violence, breakdown of law and order, armed conflicts, massive population movements, or major environmental tragedies.

It would only be used for temporary and emergency measures limited in time (9 months) and scope (€12 million maximum), pending adoption of a permanent Community instrument.

The kind of measures it would involve would be preservation or re-establishment of public order, the facilitation of dialogue, conciliation and mediation and the prevention of human rights abuses. **The Commission claims it would therefore be for a different kind of measure than those covered by ECHO (humanitarian assistance). It also claims the facility would provide measures that are complementary to the CFSP.**

Financial interventions would be in the form of grants to government agencies, NGOs and other international agencies. They could cover logistics or transport needs, information and communication management, technical assistance and training, the purchase and/or delivery of essential products and equipment.

The actions might involve, for example, the provision of civilian peace monitors or support for local police forces, the provision of a special envoy or mediator, or the provision of assistance with protecting the civilian population against violence or against natural disasters.

As regards implementation, the Commission proposes commitment involving an *advisory* committee which is in keeping with COBU's traditional position on spending programmes and moreover, is the only way of ensuring that the Rapid Reaction Facility will in fact be able to react rapidly.

Budgetary aspects

Over the years, the Commission, with broad support from the Parliament, has pursued a strategy of 'communitarisation' i.e. gradually transferring activities from the CFSP (second pillar – B8) to the Community pillar (B7).

This trend continues with the present proposal for a Rapid Reaction Facility. To finance this action the Commission is asking for **new appropriations** totalling €30 million in the first year, and thereafter €40 million annually for an unlimited period. For this it proposes to create a new line in B7-6 ('Other cooperation measures') a new chapter B7-67 entitled 'Non-specific measures involving third countries'. **These appropriations will have to be found within Heading 4 of the financial perspective.** As regards a financial reference amount ('amount deemed necessary' or 'MEN'), the Commission does not include any figure in the Regulation and Parliament of course should accept this approach which is in accordance with the IIA (Paragraph 34). The Commission proposes to find the human resources needed within DG Relex' existing allocations, but it does propose the creation of a BA7-67 line for technical assistance, in the amount of €1.8 million in the first year rising to €2 million annually thereafter (leaving operational appropriations of €28.2 million and €38 million respectively).

This will cover actions which were previously financed under the CFSP in lines B8-010 (conflict prevention) and B8-012 (conflict resolution). In 2000 there is only €27.75million on the CFSP lines concerned and a part of it is being used for activities which will not necessarily

transfer to the new Rapid Reaction Facility. In fact for 2001 the Commission seems to be thinking of using the B8-010 for entirely new types of activity and under the B8-012 lines, a large part will also be used for new activities.

Conclusions

The Commission claims the backing of the Lisbon European Council for its proposal. The case for a new instrument to complement ECHO (which is for purely humanitarian interventions) seems credible. The case for an instrument to complement the CFSP seems less credible. It quite clearly is a sign of the increasing potential for rivalry between the Commission, and the external relations Commissioner Mr Patten, on the one hand, and the Council High Representative for CFSP, Mr Solana, on the other hand. In this potential confusion, the risk for the budget is that new interventions might proliferate without any certainty that they provide value for money and without a clear demarcation between CFSP actions (second pillar – under the Council's effective responsibility) and RRF actions (first pillar – in theory under Parliament's responsibility as budgetary and discharge authority). There is also a certain risk that costs of certain interventions might quickly become uncontrollable, for example if they start off as on RRF actions but then suddenly require additional interventions under the CFSP/CDSP.

The Committee on Budgets calls on the Committee on Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to make the following recommendation to Council and Commission : The Commission and the Council should, in a joint report, outline their intentions in this field, how they intend to divide up responsibilities between themselves and above all how they intend to finance these activities. The report should in particular explain what the future common security and defence policy is going to cost and where the money for it is going to come from, because such an eventuality was not foreseen in the current financial perspective agreed by Parliament and Council in May 1999. In addition, COBU proposes the following amendments to remind the Commission and Council that the appropriations required for the kind of interventions foreseen under the Rapid Reaction Facility, insofar as they are not covered by the CFSP budget, represent a new expenditure item to be financed either in the margin of Heading 4 or by a revision of the financial perspective. COBU will also be examining question of financing of the RRF in the context of the preliminary draft supplementary and amending budget (SAB) 1/2000, in which the Commission already requested the creation of the new line for the facility (B7-671) in the 2000 budget, with a 'p.m.'.

AMENDMENTS

The Committee on Budgets calls on the Committee on Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to incorporate the following amendment in its report.

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)
Recital 12a (new)

Whereas expenditure on the type of interventions under this Regulation was not foreseen in the financial perspective agreed in the context of the IIA of 6 May 1999, insofar as they are not already covered by the expenditure foreseen for CFSP; whereas, consequently, these interventions will have to be financed within Heading 4 or, if this is not possible, by an appropriate revision of the financial perspective; whereas Parliament must be consulted on each action to be financed under the facility;

Justification:

The proposed recital is self-explanatory. The legislative authority needs to be aware of the fact that new actions also require new financing.

¹ OJ C (not yet published).