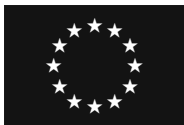


EUROPEAN PARLIAMENT

2004



2009

Committee on Development

PROVISIONAL
2004/0223(COD)

21.9.2005

DRAFT OPINION

of the Committee on Development

for the Committee on Foreign Affairs

on the proposal for a European Parliament and Council Regulation establishing
an Instrument for Stability
(COM(2004)0630 – C6-0251/2004 – 2004/0223(COD))

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(*) Enhanced cooperation between committees - Rule 47 of the Rules of
Procedure

PA_Leg

SHORT JUSTIFICATION

The Instrument for Stability is one of the four new external-assistance instruments proposed by the Commission in the 'Prodi package'. Unlike the other three (which are geographically based), it is a thematic instrument.

The purpose of the Instrument for Stability is to provide a rapid, flexible and integrated response to crisis situations in third countries by means of a single legal instrument, until such time as normal cooperation can be resumed under one of the other instruments used for financing external relations.

As things stand at present, responses to crisis situations (such as those in Afghanistan and Iraq) may be triggered by means of no fewer than seven different EU financial instruments, each of which has its own decision-making procedures and its own budget constraints.

The Instrument for Stability will serve to consolidate and unify the crisis-response mechanisms and hence to improve the response to crisis situations.

In addition to responses to immediate crises the Instrument for Stability covers long-term cooperation within a stable environment for the purpose of dealing with global and regional trans-border challenges such as civil security (combating the various forms of trafficking, organised crime and terrorism), major technological threats and the development of peacekeeping capability.

Since there are limits imposed on the length of justifications, only the two main amendments proposed will be mentioned here.

- exclusion of points (b) and (c) of Article 2 of the Regulation.

In this opinion it is being proposed that the Regulation under consideration be stripped of everything which concerns long-term cooperation in a stable environment for the purpose of dealing with particular global and regional trans-border challenges (Article 2(b) and (c)).

It is not a question of rejecting such tasks as such but, rather, of calling for them to be performed within a more appropriate framework than the Instrument for Stability.

To where and by what means could those tasks be transferred? Here are two possibilities:

- The tasks could be incorporated into the various geographical instruments as thematic programmes. All the geographical instruments contain clauses which link their various geographical areas in cases where the programme envisaged is global, horizontal, regional or cross-border in nature (see Article 22 of the Development Cooperation and Economic Cooperation Instrument [DCECI] proposal and Article 27 of the European Neighbourhood and Partnership Instrument [ENPI]). Parliament and the Council would be involved in determining the political objectives and priorities assigned to the thematic programmes pursuant to the thematic-strategy document-adoption procedure laid down in the geographical financial instruments.

- Alternatively, they could be placed within a single thematic framework instrument to be

devised. This would cover all the thematic programmes set out in the Commission Communication of the same name¹, to which would be added an eighth thematic programme concerning long-term stability. Such an arrangement would have the advantage of remedying the drawbacks of excessive 'geographisation' and of taking full account of the transversal nature of certain programmes without in any way neglecting the Commission's rationalisation objective.

- Explanations concerning the exclusion of peace-support operations and of any support for military or paramilitary operations

The withdrawal of financial and technical support for peacekeeping operations led by foreign armies (even in the case of a partnership with international, regional or sub-regional organisations operating under UN approval) would be desirable for a number of reasons.

To start with, military operations (even peacekeeping ones) would be difficult to finance if there were no prior democratic scrutiny. In view of the fact that responses need to be swift and urgent, the Commission would be acting without any political mandate from Parliament or the Council. The Commission is asking Parliament to sign a blank cheque for the purpose of supporting such and such a coalition of foreign armies.

In its explanations concerning the choice of the legal basis the Commission itself acknowledges that peacekeeping operations cannot be based solely on Article 179 of the EC Treaty: 'The civilian aspects of crisis response would normally come within the scope of Articles 179 and 181a of the EC Treaty. However, the provisions relating to the financing of peace keeping, in particular, while clearly contributing to the objectives of Articles 179 and 181a, justify a legal basis in Article 308 of the Treaty.'

Contrary to what the Commission claims, there is no Community precedent relating to peacekeeping. The Africa Peace Facility cannot serve as a precedent, since it is based on Article 11 of the Cotonou Agreement - which is a joint international agreement. Furthermore, financing decisions in respect of the Africa Peace Facility are taken in accordance with EDF procedures (i.e. by means of a decision taken by the EDF Committee comprising representatives of the Member States).

The only reference documents which would enable a dividing line to be drawn between matters relating to development and matters which come under foreign and security policy are the OECD's DAC directives, which stipulate the areas of activity which may be declared eligible for PDA. The list was revised on 7 April 2005 and is still stated that expenditure relating to peacekeeping operations may not be counted as public development aid. These conclusions are in line with the view taken by the UN's peacekeeping operations department.

The Council for a long time has refused to designate peacekeeping as a Community task (the question previously arose when the rapid-reaction mechanism was adopted. According to the Council, peacekeeping is a task which is specifically covered by the CFSP. In Article 11(3) of the EU Treaty it is stated that one of the CFSP's objectives is 'to preserve peace and

¹ Democracy and human rights, human and social development, the environment and sustainable management of natural resources, non-state development actors, food security, cooperation with industrialised countries, migration and asylum.

strengthen international security'.

Lastly, the adoption of an instrument with such fragile powers would introduce significant legal uncertainty as regards the legality of the Regulation. If one of the Member States were to seek to have the Regulation declared null and void on the grounds of incompetence or lack of a legal basis, a sword of Damocles would hang over the validity of the Regulation during the long years which it would take for the Court in order to issue a ruling.

AMENDMENTS

The Committee on Development calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
Amendment 1 Title and citations	
Proposal for a COUNCIL REGULATION establishing an Instrument for Stability THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty establishing the European Community, and in particular <i>Article 308</i> thereof, Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof, Having regard to the proposal from the Commission, <i>Having regard to the opinion of the European Parliament,</i>	Proposal for a <i>EUROPEAN PARLIAMENT AND</i> COUNCIL REGULATION establishing an Instrument for Stability <i>THE EUROPEAN PARLIAMENT AND</i> THE COUNCIL OF THE EUROPEAN UNION Having regard to the Treaty establishing the European Community, and in particular <i>Articles 179 and 181a</i> thereof, Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof, Having regard to the proposal from the Commission, <i>deleted</i>

¹ Not yet published in OJ.

Justification

Following the trilogue negotiations the three institutions decided that the legal basis would be changed. The Instrument for Stability was originally founded on the general legal basis provided by Article 308 of the EC Treaty but it will in future be based on Articles 179 and 181a of the EC Treaty. In the wake of this radical change the Commission was asked to submit a fresh proposal incorporating the modifications which would have to be made as a result. The Commission refused on the grounds that Parliament was fully entitled to amend the text and to incorporate those modifications itself.

Amendment 2 Recital 22

(22) The establishment of a new instrument for stability makes it necessary to repeal Regulation (EC) No 1724/2001 of the European Parliament and of the Council of 23 July 2001 concerning action against anti-personnel landmines in developing countries; Council Regulation (EC) No 1725/2001 of 23 July 2001 concerning action against anti-personnel landmines in third countries other than developing countries; Council Regulation (EC) No 381/2001 of 26 February 2001 creating a rapid-reaction mechanism; Council Regulation (EC) No 2046/97 of 13 October 1997 on north-south cooperation in the campaign against drugs and drug addiction; Council Regulation (EC) No 2258/96 of 22 November 1996 on rehabilitation and reconstruction operations in developing countries; **2001/824/EC, Euratom: Council Decision of 16 November 2001 on a further contribution of the European Community to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund**; Regulation (EC) No 2130/2001 of the European Parliament and of the Council of 29 October 2001 on operations to aid uprooted people in Asian and Latin American developing countries; Council Regulation (EC) No 1080/2000 of 22 May 2000 on support for the United Nations Interim Mission in Kosovo (UNMIK) and

(22) The establishment of a new instrument for stability makes it necessary to repeal Regulation (EC) No 1724/2001 of the European Parliament and of the Council of 23 July 2001 concerning action against anti-personnel landmines in developing countries; Council Regulation (EC) No 1725/2001 of 23 July 2001 concerning action against anti-personnel landmines in third countries other than developing countries; Council Regulation (EC) No 381/2001 of 26 February 2001 creating a rapid-reaction mechanism; Council Regulation (EC) No 2046/97 of 13 October 1997 on north-south cooperation in the campaign against drugs and drug addiction; Council Regulation (EC) No 2258/96 of 22 November 1996 on rehabilitation and reconstruction operations in developing countries; Regulation (EC) No 2130/2001 of the European Parliament and of the Council of 29 October 2001 on operations to aid uprooted people in Asian and Latin American developing countries; Council Regulation (EC) No 1080/2000 of 22 May 2000 on support for the United Nations Interim Mission in Kosovo (UNMIK) and the Office of the High Representative in Bosnia and Herzegovina (OHR).

the Office of the High Representative in Bosnia and Herzegovina (OHR).

Justification

The change in the legal basis means that nothing relating to cooperation in the nuclear field may fall within the scope of the Instrument.

Amendment 3

Article 1

The Community shall finance measures to promote peace and stability and assure the safety and security of the civilian population in third countries and territories in line with the provisions of this Regulation.

Such measures shall in particular support the policies of the EU relating to:

- the delivery of an effective, timely and integrated response in order to prevent, attenuate or address the consequences of crisis situations, severe political instability or violent conflict;***
- major challenges to the establishment or preservation of the rule of law in third countries, including the fight against regional or trans-border challenges such as organised crime,***

The Community shall engage in development-aid schemes and schemes involving economic, financial and technical cooperation third countries with a view to promoting peace and stability and assuring the safety and security of the civilian populations in the countries, territories and areas concerned.

This aid and cooperation are intended to enable a rapid, flexible and integrated response to be made with a view to facilitating the establishment, re-establishment or continuation of the stability conditions which are essential to the effective implementation of the Community's development and cooperation policies. This will help to ensure that crisis situations and cases of serious political instability or violent conflict can be responded to under the terms and conditions laid down in this Regulation.

The Community's policy in these areas shall contribute to the attainment of the objectives of development, the consolidation of democracy and the rule of law, and the upholding of human rights and fundamental freedoms.

trafficking and terrorism;

- *major technological threats with potential trans-border impact, including the promotion of nuclear safety and the fight against the proliferation of weapons of mass destruction;*
- *the development of peace-keeping and peace-support capacity in partnership with international, regional and sub-regional organisations.*

This Regulation also establishes a framework for response to new policy initiatives supported by the European Union in line with the objectives of the Regulation, complementing actions which may be undertaken under the other external financial instruments.

Justification

Development policy should be referred to repeatedly if the substance and the objectives of the Instrument are to accord with the latter's main legal basis (i.e. Article 179, which allows the co-decision procedure to be used).

The reasons for abolishing the types of cooperation covered by the last three paragraphs of the Commission's proposed Article (long-term cooperation during a period of stability) are set out in the Short Justification to this opinion.

Amendment 4 Article 1a (new)

Article 1a

Policy framework

The Commission shall undertake to ensure that the measures adopted pursuant to this Regulation are in accordance with the general strategic policy framework established by the Community in respect of the partner country, with the development- and economic-cooperation programmes and objectives adopted pursuant to Article 177 et seq of the Treaty, with the

Commission communications and Council conclusions and in particular with the Joint Declarations on the European stability strategy and European development policy.

Before the end of the first year following the entry into force of this Regulation, the Commission shall propose to the European Parliament and to the Council a communication on the Joint Declaration on the European stability strategy. In that Declaration shall be laid down the main European stability policy guidelines upon which the implementation of this Instrument shall be based.

Justification

The Commission states that the instruments are policy-driven but it fails to propose the political framework within which it will act. The European legislator must be able to hold a democratic debate for the purpose of establishing the main guidelines of his stability policy. The Joint Declaration on the European stability strategy will enable Parliament to select its policy options and to propose them.

Amendment 5 Article 2

In pursuit of the objectives of this Regulation the Community shall provide financial, economic and technical assistance complementary to any assistance that is normally provided for under the Humanitarian Aid instrument, the Integrated Pre-accession instrument, the European Neighbourhood and Partnership instrument and the Development Cooperation and Economic Cooperation instrument in order to:

(a) help establish or re-establish in third countries the essential conditions necessary to permit the effective implementation of the Community's development and economic cooperation policies and programmes. This may include inter alia

Insofar as is necessary in order to ensure that the general objectives laid down in this Regulation are actually achieved, the Community shall provide support for:

(1) measures in response to situations characterised by political instability;

support for:

- civilian measures undertaken by international and regional organisations, state and non-state actors designed to facilitate a peaceful resolution of disputes, prevent the emergence or intensification of violent conflict, limit its territorial spread, and promote the reconciliation of the parties, including negotiation and mediation efforts and monitoring and implementation of peace or ceasefire agreements between the parties;*
 - military monitoring and peace-keeping or peace-support operations (including those with a civilian component) conducted by regional and sub-regional organisations and other coalitions of states operating with United Nations endorsement; measures to build the capacity of such organisations and their participating members to plan, execute and ensure effective political control over such operations;*
 - the mobilisation of measures in response to natural or man-made disasters, including the use of civil protection resources in the absence of or to complement EU humanitarian assistance;*
-
- the disarmament, demobilisation and reintegration of combatants, addressing the issue of child soldiers and security sector reform;*
 - measures to address the problems posed by anti-personnel mines, unexploded ordnance or other explosive devices, small arms and light weapons and other harmful remnants of war, including the clearance*

(1) civilian measures undertaken by international or regional organisations, state or non-state actors designed to facilitate a peaceful resolution of disputes, prevent the emergence or intensification of violent conflict, limit its territorial spread, and promote the reconciliation of the parties, including negotiation and mediation efforts and monitoring and implementation of peace or ceasefire agreements between the parties;

(b) measures intended to increase the ability of regional and subregional organisations and of other coalitions of States to monitor from a policy point of view the peacekeeping operations which they carry out with UN approval;

(c) measures intended as a response to crisis situations including in particular the establishment of and operational support for interim administrations mandated by the international community and the re-establishment of and support for democratic pluralist public institutions, a nationality and locally effective public administration, an independent legal system, good governance, constitutional government and public order;

(d) measures to allow democratic civilian monitoring of the reform of security systems and of the management of security expenditure, including by means of technical cooperation designed to step up civilian monitoring of security systems;

(e) measures in response to crisis situations for the purpose of promoting and upholding human rights and fundamental freedoms, democratic principles, the primacy of the law and the principles of

and destruction of stockpiles, assistance to the victims of such devices, and risk-awareness programmes;

- measures in response to crisis situations to safeguard, re-start or establish the conditions under which sustainable economic and social development can take place, including inter alia support to the operation of internationally-mandated interim administrations and their actions, and other initial measures to establish and support democratic, pluralistic state institutions, effective civilian administration at national and local level, an independent judiciary, good governance and law and order;

- measures in response to crisis situations to promote and defend the respect of human rights and fundamental freedoms, democratic principles and the rule of law, and of the principles of international law (including support to special national and international criminal tribunals, truth and reconciliation commissions and mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights), and to stimulate the development of civil society and its participation in the political process, including measures to promote an independent and professional media;

- measures in response to crisis situations for the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, including essential productive capacity, and for the re-starting of economic activity and the generation of employment;

- such other measures as may be required to facilitate the effective transition from measures in response to crisis situations to the normal conduct of cooperation in the

international law;

(f) special national and international criminal tribunals, truth and reconciliation commissions and mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights,

(g) measures in response to crisis situations which will stimulate the development of civil society and its participation in the political process, including measures to promote independent professional media;

(h) measures in response to crisis situations which will safeguard, re-start or establish the conditions under which sustainable economic and social development can take place, and measures for the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, including essential productive capacity, and for the re-starting of economic activity and the generation of employment;

(i) the disarmament, demobilisation and reintegration of combatants (giving priority to child soldiers) and measures intended to mitigate the social impact of the

framework of the medium and long-term external development and economic cooperation strategies and programmes of the Community.

(b) further the cooperation between the EU and third countries in relation to global and regional trans-border challenges affecting the security and fundamental rights of the citizen.

Such measures may in particular:

- strengthen the capacity of law enforcement and judicial authorities in the fight against terrorism and organized crime, including trafficking, the effective control of illegal trade and transit and other areas of cooperation in the field of justice and home affairs;*

- address the security and safety of international transport and energy operations and infrastructure, including passenger and freight traffic and energy distribution;*

- respond to sudden major threats to public health, such as epidemics with a potential trans-national impact;*

- support the strengthening of national legal frameworks and international cooperation in the above fields, including the exchange of information, risk/threat assessment and other relevant forms of cooperation;*

restructuring of the armed forces;

(j) measures to address the problems posed by anti-personnel mines, unexploded ordnance or other explosive devices, the dissemination of small arms and light weapons and other harmful remnants of war, including the clearance, collection and destruction of stockpiles, assistance to the victims of such devices, the promotion of non-proliferation laws and risk-awareness programmes;

(2) Measures in response to disasters

(a) the mobilisation of measures in response to natural or man-made disasters' or major incidents affecting the environment, including the use of civil protection and clean-up resources;

(b) measures in response to sudden major threats to public health, such as epidemics;

(c) measures designed to safeguard, re-start or establish the conditions under which sustainable economic and social development can take place and measures for the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, including essential productive capacity, and for the re-starting of economic activity and the generation of employment;

(3) The Community shall work to promote the ratification, implementation and monitoring of international agreements and treaties and to encourage the development of effective international policies and practices in line with the objectives of this Regulation, including

research and analysis, early-warning systems, (including for the prevention of conflict) and training for civilian crisis management.

Such measures may be adopted under this Regulation where they respond to an urgent need, depend on delivery through global or trans-regional strategies and mechanisms for the sake of efficiency or effectiveness and are not otherwise implemented within the policy and programming framework of the Regulations on Development Cooperation and Economic Cooperation,¹ European Neighbourhood and Partnership Instrument² or the Integrated Pre-accession Instrument.³

(c) help safeguard countries and populations against critical technological threats, and combat the proliferation of nuclear, chemical, biological and radiological weapons and related materials, equipment and expertise. This may inter alia include support for:

- the promotion of nuclear safety, notably to help promote transfer of safety culture, including the safe design, operation and maintenance of nuclear power plants or other nuclear installations, the safe transport, treatment and disposal of nuclear waste, and the remediation of former nuclear sites;

- the establishment and implementation of nuclear safeguards, including the proper accounting and control of fissile materials, the control of illicit traffic in potentially dangerous materials and the installation of modern logistical, evaluation and control equipment;

- the reduction of stockpiles of fissile

¹ OJ L [...], [...], p. [...].

² OJ L [...], [...], p. [...].

³ OJ L [...], [...], p. [...].

material or weapons-related chemical and biological agents, and the enhanced safety and security of installations handling such materials or their precursors;

- the conversion of weapons-related industries and production facilities and defence-related research programmes to civilian use, including support for the conversion and alternative employment of weapons-related scientists and for remediation of former weapons-related sites;

- the effective control and detection of illicit traffic in potentially dangerous materials, including through the installation of modern logistical evaluation and control equipment;

- the development and enforcement of effective export controls on dual-use goods;

- the establishment of effective disaster-preparedness, emergency-planning, civil protection and clean-up measures in relation to possible major environmental incidents, for example in the nuclear sector or in relation to other industries where there is a potential for major environmental incidents with international implications;

- the promotion of international cooperation in the above fields, including exchange of information, risk/threat assessment and other relevant forms of cooperation.

(d) promote the ratification, implementation and monitoring of international agreements and Treaties, and the development of effective international policies and practices in line with the objectives of this Regulation. Such measures may include research and analysis, early warning systems, including for the prevention of conflict, and training

for civilian crisis management.

Justification

The reasons for withdrawing support for peace-keeping operations are set out in the Short Justification to this opinion.

Dividing Article 2 into measures in response to political-instability situations on the one hand and, on the other, measures in response to disasters reflects the need for different types of responses to be made to different types of crisis. In particular it is essential that not all the Instrument for Stability resources should be systematically allocated to the response to natural disasters (which are often highly mediatised) at the expense of assistance to little-known areas of prolonged conflict.

Amendment 6 Article 3

Other initiatives

deleted

The Community may adopt measures to support other policy initiatives where such measures contribute to the general objectives of this Regulation set out in Article 1 and or respond to commitments entered into by the Community has in international fora or established policy of the Council.

Justification

The article proposed by the Commission makes the Instrument for Stability all-encouraging and potentially extends its scope to include absolutely anything. Introducing a clause providing for a mid-term review of the Regulation should allow the latter's scope to be broadened if need be.

Amendment 7
Article 3 a (new)

Article 3a

Trigger Events

The Community may adopt measures intended to enable the aims set out in Article 2 to be achieved in response to an emergency situation, a crisis (existing or embryonic), a situation which threatens public order, human rights and fundamental freedoms or the safety and security of persons, or to a situation which threatens to degenerate into an armed conflict or to seriously destabilise the third country or countries concerned. Such measures may also be implemented in the event of prolonged political instability, major problems following a disaster or situations in which the Community has invoked the ‘essential elements’ clauses of international agreements concluded with third countries or other basic acts governing external aid.

Justification

The Commission’s implementing powers must be framed by means of a precise indication of the cases in which the Commission may resort to the dispensatory and less binding procedures laid down in the Instrument for Stability - otherwise the Commission might be tempted to misuse the Instrument’s procedures in order to implement cooperation programmes which would normally come under other financial (and in particular geographical) financial instruments.

Amendment 8
Title I a (new)

TITLE Ia

GENERAL PRINCIPLES

Justification

Setting out the general principles applicable to all activities undertaken pursuant to this Regulation makes, the Instrument clearer, more transparent and easier to read.

Amendment 9
Article 3 b (new)

Article 3 b

Subsidiarity and proportionality principles

The Community assistance provided for in this Regulation shall be made available only if and to the extent that the objectives of the action envisaged cannot be adequately achieved by means of other external-assistance financial instruments on account of the state of urgency in or the instability of the beneficiary area.

The actions undertaken in connection with this Instrument shall not go beyond what is required in order to re-establish the stable conditions which are essential to the smooth implementation and the success of cooperation and external-assistance policies and programmes.

Justification

The Commission initially proposed the complementarity principle. That principle leads to an excessively 'fuzzy' distribution of responsibilities between the Instrument for Stability and the other financial instruments, whereas subsidiarity enables all overlap of responsibilities to be avoided. It should be noted that the subsidiarity principle must be applied by area and not by country - hence it may happen that one part of a country experiences conflict whereas the rest of the country remains sufficiently stable for normal cooperation to proceed.

Amendment 10
Article 3 c (new)

Article 3 c

Principles governing the provision of aid: information, justification and visibility

Where the Commission grants aid pursuant to the terms and conditions laid down in this Regulation, the Commission shall inform the European Parliament and the Council in advance regarding the nature, the objectives and the financial cost of the measures adopted and also regarding the reasons for and the value added by using

this Regulation instead of other external-assistance financial instruments.

The Commission shall undertake to ensure that the measures adopted pursuant to this Regulation are given suitable publicity and maximum visibility, in order to make the general public aware that the aid provided is of Community origin.

Justification

Since time constraints and the need for flexibility prevent democratic monitoring from being carried out at the time when decisions are taken, this setting aside of the decision-making process must be compensated for by a requirement for abundant information to be made available in advance.

Amendment 11 Article 3 d (new)

Article 3d

Principles governing aid coordination and consistency

The Commission shall maintain a permanent dialogue with the Council concerning the planning of the assistance measures referred to in this Regulation. It shall take account of the approach adopted by the Council in both the planning and the subsequent implementation of those measures in the interests of consistency in the European Union's external action.

In order to ensure that the Community's and the Member States' assistance measures are effective and consistent, the Commission may adopt measures designed to encourage close coordination between its own activities and those of the Member States, both at decision-making level and on the ground. To that end the Member States and the Commission shall establish a system for the exchange of information.

Similarly, the Commission shall encourage cooperation with regional and international organisations. It shall ensure that the

activities pursued under this Regulation are coordinated and consistent with the activities of regional and international bodies and organisations and in particular with those of the UN.

Justification

In order to ensure that the EU speaks with a single voice on the world stage, the Community response must at best be in accordance with the one envisaged by the Council under the CFSP and at the very least be harmonised, consistent and coordinated with the Council's response. Similarly, complementarity and consistency between the EU's and the Member States' responses would give Europe greater weight as a first-division world player.

Amendment 12
Title I b (new)

Title Ib

***THE COMMUNITY AS A CIVILIAN
PEACE OPERATOR***

Justification

Where external relations are concerned the Community is too often only an international donor and it does not intervene sufficiently with its own resources. The purpose of this Title is to equip the Community with a professional civilian staff who could be deployed at grassroots level.

Amendment 13
Article 3 e (new)

Article 3e

***European Peace Construction Agency and
European Civilian Peace Corps***

No later than one year following the entry into force of this Regulation the Commission shall propose to the European Parliament and the Council a regulation which shall serve as a legal basis for the establishment of a European Peace Construction Agency. It shall be the job of that Agency to:

- coordinate Community responses with

those made by regional, national and international organisations as regards conflict prevention, crisis management and post-conflict reconstruction;

- create and train a standing European Civilian Peace Corps responsible for deploying civilian specialists, implementing practical peace projects and improving the human rights situation;

- recruit, train and deploy civilian specialists on secondment (judges, municipal officers, NGOs, and so on);

- promote the search for and the spread of best practices;

- implement and operate an early-warning system.

Justification

In the field of crisis management, coordinating and pooling the EU's various resources is a highly demanding task. The Agency will act as a forum for civilian issues relating to stability and at the same time it will ensure that expertise is harmonised. The European Civilian Peace Corps is something which Parliament has long called for, most recently in the Foreign Affairs Committee's opinion of 24 November 2004 on the establishment of a Constitution for Europe and the report of 23 March 2005 on the European security strategy).

Amendment 14 Article 4

Measures and programmes

1. Community measures under this Regulation shall be carried out through exceptional assistance measures ***or*** interim response programmes, ***or multi-annual programmes.***

2. ***Exceptional assistance measures shall respond to a situation of crisis or extreme urgency or a threat to democracy, or the rule of law, or human rights and fundamental freedoms, where the effectiveness of the measures is particularly dependent on rapid or flexible***

Exceptional assistance measures

1. Community measures under this Regulation shall be carried out through exceptional assistance measures ***and*** interim response programmes.

2. ***The Commission may adopt exceptional assistance measures where the effectiveness of cooperation depends upon rapid or flexible implementation and where action could not be taken within a reasonable period of time under the procedures***

implementation. The Commission may also adopt exceptional assistance measures in order to deliver Community measures alongside measures adopted by the Council under Title V of the Treaty on European Union relating to the Common Foreign and Security Policy.

3. Exceptional assistance measures may be followed by an interim response programme. Interim response programmes shall consist of measures designed to contribute to the establishment or restoration of the essential conditions necessary for normal implementation of the external cooperation programmes of the European Union. They may, moreover, address situations of protracted political instability, situations arising out of unresolved conflicts, major post-conflict challenges and situations where the Community has invoked the essential elements clauses of international agreements with third countries or of other basic acts governing external assistance, provided that this is consistent with any appropriate measures adopted by the Council.

Multi-annual programmes shall consist of measures designed to address long-term issues in the context of stable conditions for cooperation. Such programmes shall be based on:

- a) regional and thematic strategies specific to this instrument adopted in line with the provisions of article 7, or*
- b) the country, regional or thematic strategies adopted under the Council Regulations establishing the Development Cooperation and Economic Cooperation Instrument, the Integrated Pre-accession Instrument, and the European Neighbourhood and Partnership Instrument.*

referred to in Article 23 of this Regulation.

3. At any time and in any event every six months after the adoption of the above measures, the Commission shall assess whether or not the instability conditions still justify recourse to exceptional assistance measures. It shall report to the Council and to the European Parliament, giving an overview of the current Community response and stating the reasons for its decision to continue to halt the measures. Should it decide to continue the measures the Commission shall take due account of the comments made by Parliament and the Council.

Justification

The cases in which the Commission may use the exceptional-assistance procedure and dispense with any prior political monitoring must be stipulated. Although the Commission's flexibility and reaction speed must not be constrained in any way, post hoc political monitoring must be genuine and effective. This article distinguishes between the exceptional assistance procedures and the interim programmes, which are subject to commitment.

Amendment 15 Article 5

Special provisions relating to exceptional assistance measures and interim programmes

1. *The Commission shall maintain a constant dialogue with the Council on its planning of exceptional assistance measures under this Regulation. It shall take account of the approach adopted by the Council both in its planning and subsequent implementation of such measures, in the interests of the coherence of EU external action. Where the Commission adopts exceptional assistance measures in accordance with Article 4(2) above it shall inform the Council forthwith of the nature, objectives and financial amounts of the measures adopted.*

Within nine months of adopting exceptional measures, the Commission shall provide a report to the Council and the European Parliament. This report shall give an overview of the existing and planned Community response, including the contribution to be made from other Community financing instruments, the status of existing country or regional strategies referred to in Article 4(4)b above, any measures taken by the Community to facilitate political dialogue, and the

Interim response programmes

1. *Following the adoption of exceptional assistance measures, the Commission may adopt an 'interim response programme' based on the exceptional assistance measures adopted and serving to re-establish if possible the conditions which are essential to normal cooperation. Such programmes may also be implemented in situations of prolonged political instability, situations stemming from unresolved conflicts, major post-conflict challenges and situations in which the Community has invoked the 'essential elements' clauses of international agreements with third countries or other basic acts governing external assistance, provided that this is compatible with appropriate measures adopted by the Council.*

Community's role within the broader international and multilateral response. It shall also identify any specific measures it considers necessary to ensure coherence between Community action and measures planned or adopted under Title V of the Treaty on European Union.

2. The Commission may within the period of nine months referred to in the second sub-paragraph of paragraph 1 adopt an interim response programme, in accordance with Article 4(3) above, building on the exceptional measures adopted and paving the way for the resumption of normal cooperation if this is possible.

Where the Commission has conducted an ad hoc revision of its country or regional strategies in response to one of the situations described in Article 4(2) or 4(3) above, such strategies shall provide the basis for the interim programme.

Within two years of adopting an interim response programme the Commission shall assess whether conditions continue to justify having recourse to financing under this Regulation. In making this assessment it will consider, in particular, whether the country's assistance needs can now adequately be addressed within the policy framework guiding the delivery of assistance under the other Community external assistance instruments. The Commission shall report on its conclusions to the committee referred to in Article 25.

The Commission may adopt an interim response programme without first having adopted exceptional assistance measures.

3. To facilitate the dialogue referred to in paragraph 1 and to enhance the effectiveness and consistency of Community and national exceptional assistance measures, the Commission may take any measure necessary to promote close coordination between its own activities and those of the Member States,

2. The Commission may adopt an interim response programme without first having adopted exceptional assistance measures.

3. The Commission may adopt an interim response programme without first having adopted exceptional assistance measures.

both at decision-making level and on the ground. To that end, the Member States and the Commission shall operate a system for exchange of information.

4. Where the Commission has conducted an ad hoc revision of its country or regional strategies in response to one of the situations described in Article 2, such strategies shall provide the basis for the interim programme.

5. Within one year of adopting an interim response programme the Commission shall assess whether conditions continue to justify having recourse to financing under this Regulation. In so doing it shall consider in particular whether the country's assistance needs can now be met by means of the other external-assistance financial instruments. The Commission shall report on its conclusions to the committee referred to in Article 23.

Justification

Imposing a number of requirements on the Commission to provide justification for and information regarding its actions enables the political authorities to assess at any time whether or not the Commission is proceeding in the right direction.

By comparison with the Commission text it is proposed in this amendment that the period within which a Commission decision must be taken regarding the respective merits of continuing an interim programme or returning to normal cooperation should be reduced to one year.

Amendment 16 Article 6

Special provisions applicable to peace-support operations

deleted

1. indirect centralised management by Member-State bodies (paragraph 3), in accordance with Article 54(2)(c)(i) of the Financial Regulation that authorises this option where the basic act provides for it.

Measures providing support for the deployment of peace keeping forces and peace support operations as provided for under article 2 above, and any accompanying measures, shall be adopted as exceptional assistance measures.

Before adopting such measures the Commission shall at an early stage seek the views of Member States in the competent bodies of the Council, also indicating any complementary measures that it may consider useful for adoption by the Council.

The Commission shall establish that operations are consistent with the principles and objectives of the United Nations, and in particular that any deployment of peace-keeping forces or peace-support operations has received a UN endorsement defined in broad terms. Peace enforcement operations shall require a UN mandate.

The Commission shall establish procedures to ensure the effective independent monitoring of the conduct of forces engaged in military monitoring or peace-keeping operations financed by the Community and shall ensure regular reporting to the Council.

2. The Commission may on its own initiative adopt preparatory measures relating to peace-support operations, including fact-finding missions. The Commission shall inform the Council at an early stage before financing any such preparatory measures and shall take account of the views of the Council in the subsequent implementation of such measures.

3. Measures providing long-term support for capacity-building work in the field of military peace-keeping shall be adopted as multi-annual programmes. The Commission shall keep the Council regularly informed about the

implementation of such programmes.

Justification

The financing of military operations by means of the legal basis used for development projects could set an undesirable precedent and lead to the misuse of development policy. If peacekeeping is brought into the Community sphere, resources allocated to Community development aid could in future be diverted in order to finance military operations.

Amendment 17
Article 7

Multi-annual programmes ***deleted***

1. Where the Commission adopts regional or thematic strategy papers specific to this instrument in accordance with Article 4(4)(b) above, these shall be established for a period of up to seven years with a view to providing a coherent framework for donor and partner-country coordination.

2. In drawing up the strategy papers referred to in paragraph 1 the Commission shall ensure they are consistent with strategies and measures adopted under Community country and regional programmes. In addition, joint consultations shall be carried out between the Commission, Member States and other donors where appropriate, in order to ensure that the cooperation activities of the Community and the Member States are complementary. Other stakeholders may be associated where appropriate.

Strategy papers shall be reviewed and revised as necessary, and normally at their mid-point.

3. Multi-annual indicative programmes may be drawn up in connection with regional strategy papers. Indicative programmes shall set down the selected areas of cooperation for financing, and define specific objectives, expected

results and performance indicators. They shall set out indicative financial allocations (overall and for each priority area, in the form of a range where appropriate).

The indicative programmes shall be updated as necessary taking into account any review of the relevant strategy papers. In exceptional cases, adjustment of multi-annual allocations may be applied in the light of special circumstances, such as crisis situations or exceptional performance.

Justification

In the conclusion to its opinion on the Instrument for Stability the Council's Legal Service points out that total consistency with the Commission's stated objective of rationalising the external relations instruments could be achieved by transferring the multiannual programmes from the Instrument for Stability to the geographical instruments as thematic programmes. The latter could be allocated ring-fenced budgets representing a percentage of the total appropriation allocated to geographical instruments.

Amendment 18 Article 8

Adoption of programming documents

1. The strategy papers and multi-annual indicative programmes referred to in Article 7, and any revisions thereof, shall be adopted in accordance with the procedure referred to in Article 25 in conformity with the procedure laid down in Article 25(2).

2. The interim response programmes referred to in Article 4(3), shall be adopted by the Commission in accordance with the procedure foreseen in Article 25(3).

Those programmes may be extended in accordance with that procedure.

Adoption of programming documents deleted

2. The interim response programmes referred to in Article 5, shall be adopted by the Commission in accordance with the procedure foreseen in Article 25(3).

deleted

Amendment 19
Article 9

Adoption of new policy initiatives *deleted*

Before adopting measures provided for under article 3, the Commission, acting in accordance with the procedure laid down in Article 25(2), shall adopt guidelines identifying the policy framework to which the measures correspond, the financial means to be allocated and their complementarity with assistance delivered under other EC external aid instruments in support of such objectives.

Justification

If Article 3 of the proposal is deleted, so too must this article.

Amendment 20
Article 10

1. For measures to be undertaken in accordance with Articles 5, **6.1, or 6.2** the Commission shall adopt the necessary financing decisions. The Commission shall inform the Committee within 72 hours of the decisions taken.

2. For measures to be undertaken in accordance with Articles 6(3) or 7, the Commission shall adopt annual Action Programmes on the basis of the strategy papers referred to in Article 4(4).

3. Exceptionally, for instance in cases where an action programme has not yet been adopted, the Commission may, on the basis of the strategy papers and multi-

1. For measures to be undertaken in accordance with Articles **4 and 5**, the Commission shall adopt the necessary financing decisions. The Commission shall inform the Committee within 72 hours of the decisions taken.

deleted

annual indicative programmes referred to in Article 7, adopt measures not provided for in an action programme under the same rules and procedures as apply to action programmes.

4. The action programmes shall specify the objectives pursued, the fields of intervention, the expected results, the management procedures and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable.

5. The Commission shall send the action programmes to the Member States for their information within one month of adopting its decision.

Justification

Paragraphs 2, 3, 4 and 5 fall on account of the fact that long-term cooperation activities in a stable environment for the purpose of dealing with specific global and regional trans-border challenges (Article 2(b) and (c) of the proposal) have been withdrawn from the scope of the Instrument.

Amendment 21 Article 11

Adoption of special measures not provided for in the strategy papers or multi-annual indicative programmes *deleted*

1. In the event of unforeseen needs or circumstances, the Commission shall adopt special measures not provided for in the strategy papers or multi-annual indicative programmes provided for in Article 4(4). Where the cost of such measures exceeds EUR 15 million, the Commission shall adopt them after consultation with the committee set up in accordance with Article 25, under the procedure provided for by Article 25(3). The committee shall lay down

in its rules of procedure special rules on consultation which shall enable the Commission, where necessary, to adopt special measures by an emergency procedure.

2. Special measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures used and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable.

3. The Commission shall send the special measures to the Member States for their information within one month of adopting its decision.

4. The procedure laid down by Article 25(3) need not be used for amendments to special measures such as those making technical adjustments, extending the implementation period, reallocating appropriations within the forecast budget, or increasing or reducing the size of the budget by less than 20% of the initial budget, provided the amendments do not affect the initial objectives set out in the Commission Decision.

Justification

This article falls on account of the fact that long-term cooperation activities in a stable environment for the purpose of dealing with specific global and regional trans-border challenges (Article 2(b) and (c) of the proposal) have been withdrawn from the scope of the Instrument.

Amendment 22 Article 12, paragraph 2

2. Non-state actors eligible for financial support under this Regulation shall include: non-governmental organisations,

2. Non-state actors eligible for financial support under this Regulation shall include: non-governmental organisations, ***local***

organisations representing indigenous peoples, local citizens' groups and traders' associations, cooperatives, trade unions, organisations representing economic and social interests, local organisations (including networks) involved in decentralised regional cooperation and integration, consumer organisations, women's and youth organisations, teaching, cultural, research and scientific organisations, universities, churches and religious associations and communities, the media and any non-governmental associations and independent foundations likely to contribute to the objectives of this Regulation.

authorities, organisations representing indigenous peoples, local citizens' groups and traders' associations, cooperatives, trade unions, organisations representing economic and social interests, local organisations (including networks) involved in decentralised regional cooperation and integration, consumer organisations, women's and youth organisations, teaching, cultural, research and scientific organisations, universities, churches and religious associations and communities, the media and any non-governmental associations and independent foundations likely to contribute to the objectives of this Regulation.

Amendment 23
Article 12, paragraph 2 a (new)

2a. The following shall not be eligible for funding under this Regulation:

- armies and combat forces;***
- any military body;***
- defence ministries and their constituent bodies.***

Amendment 24
Article 13, indent 6

- debt-relief programmes;

deleted

Amendment 25
Article 13, paragraph 2

2. Community assistance shall not be used to finance:

deleted

a. the procurement of arms or ammunition;

b. recurrent military expenditure;

c. military training for combat operations, other than training in non-combat skills required for the participation in complex peace support operations or security sector reform;

d. costs relating to the deployment of the military forces of the Member States, with the exception of the costs of military personnel deployed as advisors to regional or sub-regional organisations or other coalitions of states preparing or undertaking peace keeping operations, and coming under the operational command of such organisations, and other costs related to the institutional development of peace support capacities by third countries.

Amendment 26
Article 14, paragraph 1

1. Community financing may cover expenditure associated with the preparation, follow-up, monitoring, auditing and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, e.g. studies, meetings, information, awareness-raising, training and publication activities, expenditure associated with computer networks for the exchange of information and any other administrative or technical assistance expenditure that the Commission may incur for the management of the programme. It shall also cover expenditure on administrative support staff employed at

1. Community financing may cover expenditure associated with the preparation, follow-up, monitoring, auditing and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, e.g. studies, meetings, information, awareness-raising, training and publication activities, expenditure associated with computer networks for the exchange of information and any other administrative or technical assistance expenditure that the Commission may incur for the management of the programme. It shall also cover expenditure on administrative support staff employed at

Commission Delegations to manage projects funded under this Regulation.

Commission Delegations to manage projects funded under this Regulation. ***Lastly, it shall create a database in which to store all the experience acquired. The database shall be accessible to any actor eligible under Article 12 of this Regulation.***

Justification

Many development operators (in particular NGOs) regret the fact that the experience acquired during the implementation of projects which are similar or equivalent to the ones which they are planning is not brought together and made accessible. If such experience were to be stored and made accessible the various actors would make significant efficiency gains.

Amendment 27 Article 14, paragraph 2

2. None of the support measures are necessarily covered by multi-annual programming and may therefore be financed outside the scope of strategy papers and multi-annual indicative programmes. However, they may also be financed under multi-annual indicative programmes. The Commission shall adopt support measures not covered by multi-annual indicative programmes in accordance with Article 11. ***deleted***

Amendment 28 Article 15, paragraph 1, indent 1

- Member States, ***and*** in particular their public and parastatal agencies;

- Member States, in particular their public and parastatal agencies ***and their decentralised bodies such as local authorities;***

Justification

Greater use must be made of the remarkable repositories of skills and expertise constituted by local authorities and it must be possible for their on occasion major financial resources in this area to be combined with those of the Community.

Amendment 29
Article 16, paragraph 1

1. The measures financed under this Regulation shall be implemented in accordance with the Financial Regulation applicable to the general budget of the European Communities.

1. The measures financed under this Regulation shall be implemented in accordance with the Financial Regulation applicable to the general budget of the European Communities.

One year at the latest following the entry into force of this Regulation, the Commission shall propose to the Council a revision of the Financial Regulation with a view to incorporating into it a dispensatory procedure designed to give small and medium-sized NGOs access to Community external assistance, thereby facilitating the financing of micro and medium-scale projects.

Justification

The Community tends to allocate funding primarily to large-scale projects - this being accounted for by the resulting economies of scale. The current financial rules are extremely demanding and constraining in the case of small and medium-sized NGOs which frequently find themselves ineligible, although not because of their lack of competence or integrity. If entities falling within this category are unable to operate, many elementary needs will not be met in the beneficiary countries.

Amendment 30
Article 19

1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural or legal persons from Member

The rules on participation and origin which are applicable to this Regulation shall be those laid down in European Parliament and Council Regulation No.../... on access

States of the European Community coming within the scope of the Treaties.

to external assistance [not yet published].

2. Participation in the award of procurement or grant contracts financed under this Regulation shall be also open to all natural and legal persons from:

- any country that is beneficiary of the Instrument for Pre-Accession,*
- any non-EU Member State of the European Economic Area, and*
- any other third country or territory in cases where reciprocal access to external assistance has been established.*

3. In the case of measures taken in any third country considered a Least Developed Country according to the criteria laid down by the OECD, participation in the award of procurement or grant contracts shall be open on a global basis.

4. In the case of exceptional assistance measures and interim programmes referred to in Article 4, participation in the award of procurement or grant contracts shall be open on a global basis.

5. Participation in the award of procurement or grant contracts, and rules of origin shall be open:

- in the case of measures adopted under a thematic strategy of the type defined in Article 4(4), to any natural or legal person of a developing country or country in transition, as defined by the OECD, and of any other country eligible under the thematic programme;*
- in the case of measures adopted under a country or regional strategy provided for under article 4(4)b, to any natural or legal person eligible according to the basic act under which the strategy was adopted;*
- in the case of measures adopted under a regional strategy provided for under article 4(4)a, to any natural or legal person from the countries or territories addressed by*

such strategy.

6. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to international organisations.

7. Experts proposed in the context of procedures for the award of contracts need not comply with the nationality rules set out above.

8. All supplies and materials purchased under contracts financed under this Regulation shall originate from the Community or a country eligible under paragraphs 2 to 5 above.

9. Participation by natural and legal persons from third countries or territories with traditional economic, trade or geographical links to the partner country may be authorised on a case-by-case basis. The Commission may, moreover, in duly substantiated cases authorise the participation of natural and legal persons from other countries, or the use of supplies and materials of different origin.

Justification

Parliament and the Council have just recently concluded their examination of the terms and conditions governing access to Community external assistance and have adopted a regulation. The terms and conditions governing participation and origin should therefore be gleaned from this most recent piece of legislation.

Evaluation

The Commission shall regularly evaluate the results of geographical and thematic policies and programmes and of sectoral policies and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations. The Commission shall send its evaluation reports to the Committee referred to Article 25.

Evaluation *and activity report*

The Community stability policy shall be evaluated regularly in order to enable the results and the effectiveness of the actions undertaken on the basis of this Regulation to be measured.

For the purpose of carrying out such an evaluation the Commission shall set up an Interinstitutional Evaluation Committee comprising representatives of the European Parliament, the Council and the Commission. The Committee shall adopt its own rules of procedure and the Commission shall provide it with secretarial services.

The Committee's task shall be to mandate independent experts, to lay down the terms of reference governing their missions and to submit reports which draw conclusions from the evaluations. In so doing the Committee shall ascertain whether or not the objectives laid down in the Declaration on European stability strategy have been achieved.

Lastly, the Committee shall draw up recommendations with a view to proposing improvements for future operations to the Commission. The Commission shall undertake to take due account of those recommendations in connection with future implementations.

The Committee shall forward its recommendations to the three institutions from which its members are drawn.

Justification

The Commission is proposing that it should evaluate the results of its own policy. By so doing it may lack impartiality, since it will be acting as both judge and judged. For this reason the establishment of a procedure for external evaluation (in the form of a tripartite committee) is being proposed. This would result in more objective evaluations and conclusions.

Amendment 32
Article 25, paragraph 2

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 4(3) of the Decision shall be 30 days. ***deleted***

Justification

It should be noted that the procedure referred to in the Commission proposal for the adoption of the interim programmes is the consultation procedure, which of all the comitology procedures is the one which is least binding on the Commission.

Amendment 33
Article 26

Review

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

Mid-term review

By 31 June 2010 at the latest the Commission must submit to the European Parliament and the Council a report evaluating this Instrument's first three years of operation, accompanied by a legislative revision proposal incorporating the necessary modifications.

Justification

The purpose of this amendment is to incorporate into the body of the Instrument for Stability the results of the trialogue involving Parliament, the Council and the Commission. In response to Parliament's concerns regarding its exclusion from the decision-making procedures relating to the various external-cooperation instruments, the Commission has proposed inserting mid-term review clauses and a lapse date (see the next amendment), i.e. mandatory revision every three or four years.

Amendment 34 Article 26a (new)

Article 26a

Date of entry into force and date of expiry

This Regulation shall come into force on 1 January 2007 and lapse on 31 December 2013.