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**\*\*\*I**

## **REPORT**

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

Committee on Foreign Affairs

Rapporteur: Angelika Beer

Draftsperson (\*): Pierre Schapira, Committee on Development

(\*): Enhanced cooperation between committees – Rule 47 of the Rules of  
Procedure

### ***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 Codecision 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.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2004)0630)<sup>1</sup>,
  - having regard to Article 251(2), Article 179 and Article 181a of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0251/2004),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Rules 51 and 35 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on Development, the Committee on International Trade and the Committee on Budgets (A6-0157/2006),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

### Amendment 1 Title

Proposal for a *regulation of the Council* establishing an Instrument for Stability

Proposal for a ***European Parliament and Council regulation*** establishing an Instrument for Stability

### *Justification*

*The present and following amendments concern the legal basis. There is agreement between Council and Parliament that the legal basis should not be Article 308 TEC but Articles 179*

<sup>1</sup> OJ C ... / Not yet published in OJ.

*(Development Cooperation) and 181a (Economic, financial and technical cooperation with third countries). The Legal Affairs Committee has delivered a positive opinion, in accordance with Rule 35(2). This modification requires some changes to the scope of the proposal (all measures relating to nuclear safety must be deleted and will be covered by a separate proposal).*

Amendment 2  
Preamble

THE COUNCIL OF THE EUROPEAN  
UNION,

**THE EUROPEAN PARLIAMENT AND  
THE COUNCIL OF THE EUROPEAN  
UNION,**

*Justification*

*See amendment 1.*

Amendment 3  
Citation 1

Having regard to the Treaty establishing  
the European Community, and in particular  
**Article 308** thereof,

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

*Justification*

*See amendment 1.*

Amendment 4  
Citation 2

**Having regard to the Treaty establishing  
the European Atomic Energy Community,  
and in particular Article 203 thereof,**

**deleted**

*Justification*

*See amendment 1.*

Amendment 5  
Citation 4

**Having regard to the opinion of the  
European Parliament,**

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

## Justification

See amendment 1.

### Amendment 6 Recital 1

(1) In order to make the Community's external aid more effective, a new framework has been devised for the planning and provision of assistance. Regulation (EC) No ... of the European Parliament and of the Council of ... will set up a Pre-Accession Instrument to cover Community assistance for candidate countries and potential candidate countries. Regulation (EC) No ... of the European Parliament and of the Council of ... will introduce a European Neighbourhood and Partnership Instrument. Regulation (EC) No ... of the European Parliament and of the Council of ... is aimed at development cooperation and economic cooperation with the other third countries. The present Regulation is a complementary instrument aimed at addressing crisis situations and certain global long-term challenges to peace and stability and civilian security and safety.

(1) In order to make the Community's external aid more effective, a new framework has been devised for the planning and provision of assistance. Regulation (EC) No ... of the European Parliament and of the Council of ... will set up a Pre-Accession Instrument to cover Community assistance for candidate countries and potential candidate countries. Regulation (EC) No ... of the European Parliament and of the Council of ... will introduce a European Neighbourhood and Partnership Instrument. Regulation (EC) No ... of the European Parliament and of the Council of ... is aimed at development cooperation and economic cooperation with the other third countries. ***Regulation (EC) No... of the European Parliament and of the Council of... will establish a Human Rights and Democracy Instrument.*** The present Regulation is a complementary instrument aimed at addressing crisis situations and certain global long-term challenges to peace and stability and civilian security and safety.

### Amendment 7 Recital 2

(2) The Community is a major provider of economic, financial, technical, humanitarian and macro-economic assistance to third countries. The promotion of stable conditions for human development and the promotion of human rights, democracy and fundamental freedom remains one of the prime objectives of the full range of Community external assistance instruments.

(2) The Community is a major provider of economic, financial, technical, humanitarian and macro-economic assistance to third countries. The promotion of stable conditions for human development and the promotion of human rights, democracy and fundamental freedom remains one of the prime objectives of the full range of Community external assistance instruments. ***The Council in its conclusions on the effectiveness of EU external action in November 2004 concluded that "peace,***

***security and stability as well as human rights, democracy and good governance, are essential elements for sustainable economic growth and poverty eradication”.***

*Justification*

*It is important to stress the close relation between economic growth and poverty eradication and the promotion of the rule of law and respect of human rights.*

Amendment 8

Recital 4

***(4) The European Council has committed the European Union*** to becoming an effective player in crisis management and the prevention of violent conflict. The EU Programme for the Prevention of Violent Conflicts underlines the “political commitment to pursue conflict prevention as one of the main objectives of the EU’s external relations”. Community financing instruments have a major contribution to make to the this goal and to the development of the Union as a global player.

***(4) The European Union is committed*** to becoming an effective player in crisis management and the prevention of violent conflict. The EU Programme for the Prevention of Violent Conflicts underlines the “political commitment to pursue conflict prevention as one of the main objectives of the EU’s external relations”. Community financing instruments have a major contribution to make to the this goal and to the development of the Union as a global player.

*Justification*

*Formulation appropriate for a co-decided act.*

Amendment 9

Recital 7

***(7) The Cotonou Partnership Agreement provides for an integrated framework for both security and development, and the Instrument for Stability should build on this approach.***

***(7) The Cotonou ACP-EC Partnership Agreement commits the parties to pursue an active, comprehensive and integrated policy of peace-building and conflict prevention and resolution and to ensure the creation of the necessary links between such measures and development cooperation.***

*Justification*

*The amendment reflects the actual wording of Article 11 of the Agreement.*



Amendment 10  
Recital 9

***(9) Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions provides for the deployment of civil protection specialists to third countries in response to natural or man-made disasters.*** The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Reinforcing the Civil Protection Capacity of the European Union identifies the need for funds to be mobilised rapidly in support of such actions.

(9) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Reinforcing the Civil Protection Capacity of the European Union identifies the need for funds to be mobilised rapidly in support of such actions.

*Justification*

*The change in the legal basis requires the deletion of all references to the EURATOM treaty.*

Amendment 11  
Recital 10

(10) The European Council Declaration on Combating Terrorism of 25 March 2004 called for counter-terrorist objectives to be integrated into external assistance programmes. Moreover, the EU Millennium Strategy on the prevention and control of organised crime, adopted by the Council on 27 March 2000, calls for closer cooperation with third countries.

(10) The European Council Declaration on Combating Terrorism of 25 March 2004 called for counter-terrorist objectives to be integrated into external assistance programmes. Moreover, the EU Millennium Strategy on the prevention and control of organised crime, adopted by the Council on 27 March 2000, calls for closer cooperation with third countries ***and with the various United Nations agencies seeking to combat terrorism.***

***Community action in these areas must comply with EU Member States' obligations under international law, in particular human rights law, refugee law and international humanitarian law.***

*Justification*

*See amendment 22, notably letter (a) of Article 2a (new), paragraph 2.*

Amendment 12  
Recital 11

(11) There is a particular need for the EU to be able to take measures which will permit it ***to support the promotion of nuclear safety and security in third countries***, to combat the proliferation of weapons of mass destruction, and to address other technological threats to safety and security and major unforeseen public health risks with a trans-national impact. The European Council of 12 December 2003 adopted an EU Strategy against proliferation of weapons of mass destruction.

(11) There is a particular need for the EU to be able to take measures which will permit it to combat the proliferation of weapons of mass destruction, and to address other technological threats to safety and security and major unforeseen public health risks with a trans-national impact. The European Council of 12 December 2003 adopted an EU Strategy against proliferation of weapons of mass destruction.

*Justification*

*All reference to nuclear safety should be deleted from the text given that, following the change in the legal basis, this aspect will be covered by a separate instrument.*

Amendment 13  
Recital 14

(14) Experience has shown that post-crisis stabilisation requires a sustained and flexible engagement from the international community, and that special attention needs to be given in the first years after a crisis, during which time many countries return to a crisis situation. Moreover, partner countries undergoing crisis situations may not have the institutional capacity or governments enjoying full international political recognition to allow them fully to participate in the setting of assistance priorities.

(14) Experience has shown that post-crisis stabilisation requires a sustained and flexible engagement from the international community, and that special attention needs to be given in the first years after a crisis, during which time many countries return to a crisis situation. Moreover, partner countries undergoing crisis situations may not have the institutional capacity or governments enjoying full international political recognition to allow them fully to participate in the setting of assistance priorities. ***Non-state actors representing local civil society and, where appropriate, their European NGO partners should therefore be closely involved in the design and implementation of measures so as to increase the sense of ownership and the legitimacy of EC intervention.***

### *Justification*

*The role of local non-governmental organisations in pursuing the objectives of this Regulation must be emphasised and their involvement in the design and implementation of crisis-related measures must be strengthened. See also am. 25, paragraph 7 in Article 5.*

#### Amendment 14 Recital 15

(15) Implementation of programmes of assistance in times of crisis and political instability require specific measures to ensure flexibility in decision-making and budget allocation, as well as enhanced measures to ensure coherence with bilateral aid and mechanisms for the pooling of donor funds, including the delegation of public authority tasks through indirect centralised management.

(15) Implementation of programmes of assistance in times of crisis and political instability require specific measures to ensure flexibility **and transparency** in decision-making and budget allocation, as well as enhanced measures to ensure coherence with bilateral aid and mechanisms for the pooling of donor funds, including the delegation of public authority tasks through indirect centralised management.

### *Justification*

*Especially important since actions in this field may have different funding sources and be implemented in parallel with other instruments.*

#### Amendment 15 Recital 21

(21) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. ***Strategy documents governing long-term assistance should be submitted to a management committee. A consultative committee should be consulted where particular flexibility is required in the design and implementation of the programme.***

(21) ***The prerogatives of the European Parliament and of the Council as co-legislators must be safeguarded when adopting the strategic policy guidelines for the implementation of this Regulation.***  
The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

### *Justification*

*This amendment should be seen in connection with amendments 28, 30, 31 and 32.*

#### Amendment 16

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

(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).

### *Justification*

*The deletion is necessary following the change in the legal basis.*

## Amendment 17

### Recital 24

***(24) The Treaties do not provide, for the adoption of this Regulation, powers other than those of Article 308 of the Treaty***

*deleted*

*establishing the European Community  
and Article 203 of the Treaty establishing  
the European Atomic Energy Community.*

*Justification*

*The deletion is necessary following the change in the legal basis.*

Amendment 18  
Title I

TITLE I - OBJECTIVES

TITLE I - OBJECTIVES *AND SCOPE*

Amendment 19  
Article 1

General objectives *and scope*

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, trafficking and terrorism;*

General objectives

*1. The Community shall undertake development cooperation measures as well as financial, economic and technical cooperation* measures to promote peace and stability and assure the safety and security of the civilian population in third countries and territories *under the conditions set out in* this Regulation.

*2. Community assistance shall:*

*(a) provide* an effective, timely, *flexible* and integrated response *to help establish, re-establish or maintain the conditions which are essential to permit the effective implementation of the Community's cooperation policies and thereby contribute to peace, stability and the development of democracy, in particular in a situation of urgency, crisis or emerging crisis, as well as to the prevention of violent conflicts;*

*(b) in the context of stable conditions for the implementation of Community cooperation policies, help build capacity in third countries to address global, trans-regional and cross-border issues which have a potentially destabilising effect, notably those which challenge the rule of law, affect the security and safety of*

*– 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.*

*individuals or threaten critical infrastructure.*

*3. 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.*

#### *Justification*

*This and the following amendments introduce some drastic changes to the Commission proposal which need to be explained in detail. Your rapporteur has followed closely the work of the relevant working group in the Council and has already had a number of preliminary contacts with the representatives of the Council Presidency. As a result, a common approach to the structure of the instrument was found whereby a clear distinction is introduced between short-term, crisis-related measures (grouped under Article 2 - see am. 21) and more long-term, stability-related, trans-regional or global measures (grouped under the new Article 2a - see am. 22). Unlike the Council, your rapporteur believes, however, that the objective of the instrument (promotion of peace and stability) must be clearly spelt out. European citizens are asking for more peace and stability in the world and the Union must respond to this call.*

Amendment 20  
Article 1 a (new)

#### *Article 1a*

##### *Complementarity, subsidiarity and coherence*

*1. Community assistance under this Regulation shall be complementary to that provided under the Regulations establishing the Humanitarian Aid instrument, the Integrated Pre-accession instrument, the European Neighbourhood and Partnership instrument, the*

*Development Cooperation and Economic Cooperation instrument and the Democracy and Human Rights Instrument. It shall also be complementary to Community assistance provided under the thematic programmes financed by the above instruments.*

*Community assistance under this Regulation shall be provided only to the extent that it is not covered by the above instruments or to the extent that the objectives of the action envisaged in the beneficiary area cannot be adequately achieved by means of other external assistance financial instruments.*

*2. The Commission shall ensure that measures adopted under this Regulation are consistent with the Community's overall strategic policy framework for the partner country, and in particular with the objectives of the instruments referred to in paragraph 1, as well as with other cooperation measures adopted pursuant to the Treaty establishing the European Community, notably Articles 177 to 181a, and the Treaty on European Union.*

*3. In order to enhance the effectiveness and consistency of Community and national assistance measures, the Commission may take any measure necessary to promote close co-ordination 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 operate a system for exchange of information.*

*4. Community intervention under this Regulation shall take full account of the gender perspective, in particular of the effects of conflicts on women, and shall promote equal participation and full involvement of women in conflict-related and peace-support measures.*

*5. The measures adopted pursuant to this Regulation must be given suitable publicity and visibility in order to make the general*

**public aware that the aid provided is of Community origin.**

*Justification*

*Your rapporteur feels that general provisions regarding subsidiarity, complementarity and coordination with other instruments and with Member States' actions, which in the Commission's original proposal are scattered throughout the text, should be grouped under one single article together with new horizontal provisions covering the gender perspective, as well as publicity and visibility of Community action. This view is also shared by the Council Presidency. In addition, your rapporteur has added a reference to the Democracy and Human Rights Instrument, which, in Parliament's view, should remain a separate instrument rather than, as suggested by the Commission, a cross-cutting thematic action with no specific legal basis.*

**Amendment 21**

Article 2, introductory part and point (a)

***Purpose***

***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***

***Measures in response to situations of crisis or emerging crisis or continued political instability***

***1. The Community may take measures in pursuit of the objectives set out in Article 1(2), point (a) in response to a situation of urgency, crisis or emerging crisis, a situation posing a threat to the rule of law, to law and order, to the protection of human rights and fundamental freedoms or to the security and safety of individuals, or a situation threatening to escalate into armed conflict or to destabilise severely the third country or countries concerned.***

***Such measures may also address situations of continued instability, major post-conflict and post-disaster challenges and situations where the European Union has invoked the essential elements clauses of international agreements with third countries or of other basic acts governing Community external assistance.***

***2. Such Community assistance shall cover the following areas:***



*include inter alia 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***

***(a) technical and financial support for*** civilian measures undertaken by international and regional organisations, state and non-state actors ***to reconcile the parties to a conflict***, including ***measures in the fields of mediation, confidence-building measures and measures to address the root causes of a conflict***;

***(b) measures to ensure the meaningful integration of women as active participants in crisis management, conflict resolution, post-conflict reconstruction and reconciliation, as well as measures to ensure that the specific needs of women in crisis and conflict situations, including those in which they are exposed to gender-based violence, are adequately met***;

***(c) technical and financial support for*** peace-keeping ***and*** peace-support operations conducted by regional and sub-regional organisations 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; ***financial support for the UN Peacebuilding Commission created at the 2005 UN Summit, which focuses on conflict prevention, early recognition of emergent conflicts and development of long-term peace strategies***;

***(d) measures in response to natural or man-made disasters and threats to public health***, in the absence of or to complement ***Community*** humanitarian assistance;

***(e) support for the civilian aspects of the*** disarmament, demobilisation and reintegration of combatants ***into civil society, and, where appropriate, their***

*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 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,

*repatriation, as well as measures to address the problem* of child soldiers *and female combatants*;

*(f) measures to mitigate the social effects of the restructuring of the armed forces*;

*(g) support for* measures to address the *effects on the civilian population of landmines*, unexploded ordnance or other explosive devices and other harmful remnants of war, including the clearance and destruction of stockpiles and risk-awareness programmes;

*(h) support for the rehabilitation and reintegration of the victims of armed conflict and natural disasters*;

*(i) support for measures addressing the problems arising from the dissemination of small arms and light weapons*;

*(j) support for the establishment and functioning* of interim administrations *mandated in accordance with international law*;

*(k) support for the development of* democratic, pluralistic state institutions, effective civilian administration at national and local level, an independent judiciary, good governance and law and order, *including technical cooperation to promote the reform of the security sector and to strengthen civilian control sector over it*;

*(l) measures to promote and defend respect of human rights and fundamental freedoms, democratic principles and the rule of law, the fight against the extinction*

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

*The Commission shall ensure that measures adopted are consistent with the Community's overall strategic policy framework for the partner country, and in particular with the objectives of its development and economic cooperation policies and programmes adopted*

*of women's rights* and the principles of international law (including support *for* 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), *in the absence of or to complement initiatives financed under the Democracy and Human Rights Instrument*;

*(m) measures to support* the development *and organisation* of civil society and its participation in the political process, including measures to promote an independent *pluralist* and professional media;

*(n) measures in the post-conflict phase necessary to start* the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, *as well as* essential productive capacity, and *measures* for the re-starting of economic activity, the generation of employment *and the establishment of the conditions necessary for sustainable social development*.

*3. Community cooperation may cover* such other measures *falling within the scope of the Regulations establishing the Pre-Accession Instrument, the European Neighbourhood and Partnership Instrument, the Development Cooperation and Economic Cooperation Instrument and the Democracy and Human Rights Instrument*, as may be required to facilitate the effective transition to the normal conduct of cooperation in the framework of the *above instruments*.

***pursuant to Articles 179 and 181a of the Treaty establishing the European Community.***

*Justification*

*This amendment regroups in a separate article all measures which are crisis-related. The changes introduced to the text aim at tightening up the text and defining more clearly the type of measures and the scope of such measures, in some cases with a view to drawing as clear a demarcation as possible between Community interventions and CFSP action. This section of the text will be at the very heart of our negotiations with the Council, whose approach is in some cases much more restrictive. Core issues are whether the Stability Instrument should finance peace-keeping and peace-support operations, whether it should cover disarmament measures, clearance and destruction of stockpiles. Your rapporteur has also added a reference to a Democracy and Human Rights Instrument to mark Parliament's determination to maintain it as a separate programme, operating in parallel with the Stability Instrument. Finally your rapporteur has opted in favour of a more restricted enabling clause; the Commission may finance also measures other than those listed in the present Regulation provided they fall within the scope of and are eligible under the other external assistance instruments.*

Amendment 22  
Article 2, points (b), (c) and (d)

***Article 2a***

***Cooperation with third countries in the context of stable conditions for cooperation***

***(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;***

***1. The Community may adopt measures in pursuit of the objectives of Article 1(2), point (b) where their effectiveness depends on delivery through global and trans-regional strategies and mechanisms or where they contribute to the development of effective international capacities for crisis response.***

***2. Such Community assistance shall cover the following areas:***

***(a) strengthening*** the capacity of law enforcement and judicial authorities ***involved*** in the fight against terrorism, ***as well as organised*** crime, including trafficking ***in drugs, people and firearms*** and the effective control of illegal trade and transit ***including the fight against corruption; such measures must comply with EU Member States' obligations under***

*– strengthen the international framework for the protection of human rights and support international action for the promotion of democracy;*

*– 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;*

*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, European Neighbourhood and Partnership Instrument or the Integrated Pre-accession Instrument.*

*(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*

*international law, in particular human rights law, refugee law and international humanitarian law;*

*(b) support for efforts of local, national and regional organisations to address the problems of small arms, light weapons and exploding remnants of war, including weapons collection and destruction;*

*(c) security and safety of international transport and energy operations and infrastructure, including passenger and freight traffic and energy distribution;*

*(d) measures to ensure an adequate response to sudden major threats to public health, such as epidemics with a potential trans-national impact;*

*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 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***

*(e) the reduction of stockpiles of weapons-related chemical and biological agents, and the enhanced safety and security of installations handling such materials or their precursors **as well as the dismantlement, remediation or conversion of related storage or production facilities, where these are declared as no longer belonging to a defence programme;***

*(f) 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;*

*(g) **strengthening the capacity of the authorities involved in** the effective control and detection of illicit traffic in potentially dangerous materials, including through the installation of modern logistical evaluation and control equipment;*

*(h) **support for the development of the legal framework and institutional capacities for the establishment** and enforcement of effective export controls on dual-use goods, **including measures of regional cooperation;***

*(i) **support for the development** of effective disaster-preparedness, emergency-planning **and capacities for** civil protection and clean-up measures **including** in relation to possible major environmental incidents **and 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.

relation to industries where there is a potential for major environmental incidents with international implications; *such measures shall be financed in the absence of or to complement initiatives carried out under the Humanitarian Aid Instrument;*

*(j)* promotion of international *and regional* cooperation in the above fields, including ratification, implementation and monitoring of international agreements and *treaties*;

*(k)* development of effective *crisis-response and conflict-prevention capacities, including* research and analysis, *risk/threat assessment*, early warning systems and training for civilian crisis management.

#### *Justification*

*This amendment is closely linked with the previous one. It gathers all long-term actions which in the Commission proposal are listed in the same article as the crisis-related ones. It also takes into account the change in the legal basis and the need to exclude all nuclear safety measures, which will be the object of a separate instrument. The deletion of the indent relating to the protection of human rights should be seen in connection with Parliament's request to maintain the Human Rights and Democracy programme which would continue to finance this type of measure.*

Amendment 23  
Title I a (new)

### **TITLE I a** **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 24  
Article 4

*Article 4*

*deleted*

## *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 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.*
- 4. 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.**

#### *Justification*

*Bearing in mind the distinction between crisis-related and long-term measures, your rapporteur, in agreement with the Presidency, wants to identify more clearly what type of mechanism should apply for adopting crisis-related measures and what procedures are foreseen for long-term measures. Therefore the present article, which mixes up the two categories of actions, is deleted and separate provisions are introduced with am. 25 and 26.*

#### Amendment 25 Article 5

***Special provisions relating to exceptional assistance and interim response 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.***

***Exceptional assistance and interim response programmes***

***1. Measures under Article 2 shall be carried out through exceptional assistance measures or interim response programmes.***

***Exceptional assistance measures shall be adopted in response to a situation of crisis as referred to in Article 2(1) where the effectiveness of the measures is dependent on rapid or flexible implementation. Such***

*measures shall have a maximum duration of 24 months.*

*Interim response programmes building on exceptional assistance measures shall be adopted with a view to establishing, re-establishing or maintaining the essential conditions necessary for the effective implementation of the Community's external cooperation policies. Interim response programmes may be adopted without the prior adoption of exceptional assistance measures.*

*2. Before adopting exceptional assistance measures the Commission shall inform the Council and the European Parliament of the nature, objectives and financial amounts envisaged. The Commission shall likewise inform both institutions before making significant substantive changes to exceptional assistance measures already adopted.*

*3. At as early a stage as possible, following the adoption of exceptional assistance measures, and in any case every nine months after doing so, the Commission shall report to the Council and the European Parliament, stating whether the situation continues to justify recourse to exceptional assistance measures. It will provide an overview of the existing and planned Community response and the methodology applied for its design and implementation. It shall also indicate the contribution to be made from other Community financing instruments, the status of existing country, regional or thematic strategies referred to in Articles 7 and 7a, and the Community's role within the broader international and multilateral response. Finally, it shall 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.*

*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 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*

4. The Commission may, *following the*

*of nine months referred to in the second sub-paragraph of paragraph 1 adopt a 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, 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.***

***adoption of exceptional assistance measures, adopt an interim response programme, building on the exceptional assistance measures adopted, with a view to the resumption of normal co-operation 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 2* above, such strategies shall provide the basis for the interim programme.

***5. 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 and to the European Parliament.***

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

***7. The Commission shall consult and cooperate closely with non-state actors representing local civil society and, where***

***appropriate, with their European NGO partners, when planning, designing and implementing measures and programmes under the present article.***

### *Justification*

*See justification for am. 24. Your rapporteur also feels that both Council and Parliament should be kept informed about the planning of exceptional measures and interim programmes and that we should be regularly informed about their implementation. Furthermore non-state actors should be closely involved in the management of the interventions.*

### Amendment 26 Article 6

Special provisions applicable to peace-support operations

***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

Special provisions applicable to peace-support operations

1. Measures providing ***technical and financial*** 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.

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 European Parliament and** 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 European Parliament and** the Council at an early stage before financing any such preparatory measures and shall take account of the views **of the European Parliament and** 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 **and the European Parliament** regularly informed about the implementation of such programmes.

#### *Justification*

*The special provisions for peace-support operations should be adjusted in order to take the new legal basis into account.*

Amendment 27  
Article 6 a (new)

#### **Article 6a**

***The Commission shall take the appropriate measures in order to develop and coordinate peace-building activities carried out by the Community and the European Union. The Commission shall have the task to***

***– coordinate Community and European Union responses and with those made by regional, national, international and non-governmental 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);*

*– promoting the search for and the spread of best practices;*

*– implement and operate an early warning system.*

Amendment 28  
Article 6 b (new)

*Article 6b*

*The Commission shall submit a proposal for a Multi-annual Policy Framework (MPF) as soon as the Financial Framework for the period 2007-2013 is adopted.*

*The MPF shall set out the policy guidelines and strategic priorities underlying Community assistance under this Regulation. It shall also provide an indicative breakdown of the allocation of resources between measures in response to situations of crisis, listed under Article 2(1), and cooperation measures in the context of stable conditions, outlined under Article 2a(1), and, within the latter, between the different types of eligible actions.*

*The MPF shall provide the basis for the relevant strategy papers and multi-annual indicative programmes referred to in Article 7.*

*The MPF shall be adopted by Parliament and Council in accordance with Article 251 of the Treaty.*

### *Justification*

*During the trilateral meetings held between Commission, Council Presidency and Parliament, the Commission put forward the idea of submitting a "multiannual indicative framework" which would set out the political priorities under each of the new for instruments for external assistance and the resulting financial allocations. Your rapporteur, having regard to the opinion of Parliament's Legal Service, believes that this framework, which is a political document, falls within the prerogatives of the legislator and should therefore be adopted under the same procedure which applies for the Stability Instrument, i.e. codecision. She also takes the view that the term "multiannual indicative framework" is misleading and believes that it should be renamed "multiannual policy framework" to emphasise the political nature of the document.*

### Amendment 29

#### Article 7, paragraphs 1 and 2

**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.

**1. *Measures under Article 2a shall be carried out as multi-annual programmes.***

***Multi-annual indicative programmes shall consist of measures designed to address long-term issues in the context of stable conditions for co-operation. Such programmes shall be based on strategy papers, which shall be established for a period compatible with the priorities set in the policy framework, with a view to providing a coherent framework for donor and partner-country co-ordination.***

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, regional ***or thematic strategies adopted under other Community instruments for external assistance.***

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

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

appropriate.

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

#### *Justification*

*See remarks on am. 25, 26 and 28 - Your rapporteur has also added a reference to the thematic programmes which, according to the Commission (see Communication on External Actions Through Thematic Programmes under the Future Financial Perspectives - COM(2005) 324) would be financed by drawing funds from all four instruments (see also am. 30).*

Amendment 30  
Article 7 a (new)

#### *Article 7a*

##### *Thematic programmes*

- 1. This Regulation may contribute to the financing of thematic programmes.***
- 2. Before adopting the thematic strategy papers on which the programmes referred to in paragraph 1 will be based, the Commission shall submit to the European Parliament and to the Council a draft text. Within three months of the submission of the draft text, each Institution may either suggest amendments, if it is considered that the text does not meet the objectives laid down by the legislative authority, or object to the adoption of that text and, possibly, ask the Commission to submit a proposal for a legislative act to be adopted in accordance with Article 251 of the Treaty.***

#### *Justification*

*This amendment should be seen in connection with amendments 31 and 32. Your rapporteur has taken note of the opinion of Parliament's Legal Service which draws our attention to the fact that some of the decisions which would be delegated to the Commission via the comitology procedure are of discretionary nature and imply policy choices which are the prerogative of the legislator. Without going as far as requesting that co-decision applies to all strategy papers and similar strategic documents (since this would be too burdensome), your rapporteur insists on full involvement of the legislator and has taken inspiration from the provisions of the Inter-Institutional Agreement on Better Lawmaking. The section of the IIA*



*regarding co-regulation, i.e. cases in which certain decisions are delegated by the legislator to parties which are recognised in the field (e.g. the social partners), foresees a call-back mechanism which ensures that if the legislator is not satisfied that the proposed measures are in line with the proposed objectives of Community Action, it can ask the Commission to withdraw such measures and submit a legislative proposal.*

Amendment 31  
Article 8

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.

1. ***Before adopting*** the strategy papers and multi-annual indicative programmes referred to in Article 7, and any revisions thereof, ***the Commission shall submit to the European Parliament and to the Council a draft text. Within three months of the submission of the draft text, each Institution may either suggest amendments, if it is considered that the text does not meet the objectives laid down by the legislative authority, or object to the adoption of that text and, possibly, ask the Commission to submit a proposal for a legislative act to be adopted in accordance with Article 251 of the Treaty.***

2. ***Before adopting the*** interim response programmes referred to in ***Article 5(4)***, ***the Commission shall submit to the European Parliament and to the Council a draft text. Within three months of the submission of the draft text, each Institution may either suggest amendments, if it is considered that the text does not meet the objectives laid down by the legislative authority, or object to the adoption of that text and, possibly, ask the Commission to submit a proposal for a legislative act to be adopted in accordance with Article 251 of the Treaty.***

Those programmes may be extended in accordance with that procedure.

*Justification*

*The present Regulation gives the Commission the necessary latitude and flexibility with regard to exceptional assistance. It also provides for new initiatives not covered by the Regulation. Objectives and measures are broadly defined. This means that the co-legislators should be granted to intervene should they consider that the Commission, when defining the purpose and scope of Community action under their instrument, goes beyond or against their political will.*

Amendment 32  
Article 9, paragraph 1 a (new)

*Before adopting such guidelines, the Commission shall submit to the European Parliament and to the Council a draft text. Within three months of the submission of the draft text, each Institution may either suggest amendments, if it is considered that the text does not meet the objectives laid down by the legislative authority, or object to the adoption of that text and, possibly, ask the Commission to submit a proposal for a legislative act to be adopted in accordance with Article 251 of the Treaty.*

*Justification*

*Your rapporteur suggests applying the call-back mechanism also to the adoption of new policy initiatives, i.e. actions which are not explicitly covered by the provisions of the Regulation (see Article 3 of the Commission proposal).*

Amendment 33  
Article 12, paragraph 2

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

2. Non-state actors eligible for financial support under this Regulation shall include: non-governmental organisations, **local 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, **including independent political foundations**, likely to contribute to the objectives of this Regulation.

Amendment 34  
Article 13, indent 6

- *debt-relief programmes;*

*deleted*

Amendment 35  
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 Commission Delegations to manage projects funded under this Regulation.

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. ***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 36  
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;***

*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 37  
Article 16, paragraph 1

1. The measures financed under this Regulation shall be **implementing** 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.

***However, no later than one year following the entry of 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 for granting and monitoring measures for financing external aid. These special rules are intended to ease the terms of access to external Community aid for non-state actors and to facilitate the financing of micro- and medium-scale projects.***

*Justification*

*The Community tends to allocate funding primarily to large-scale projects. The current financial rules are extremely constraining in the case of small and medium-sized NGOs who do not manage to access Community financing. If actors falling within this category are unable to operate, many elementary needs will not be met in the beneficiary countries. The amendment proposes that the derogation scheme allowed for the financing of humanitarian aid can be extended and adapted to the financing of aid granted under this instrument.*

Amendment 38  
Article 16, paragraph 3

3. In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary country or region.

3. In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary country or region ***after verifying that they respect the basic principles of the Financial Regulation.***

*Justification*

*A clarification relating to the need for transparency, non-discrimination and the avoidance of conflicts of interest.*

***1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural or legal persons from Member States of the European Community coming within the scope of the Treaties.***

***2. Participation in the award of procurement or grant contracts financed under this Regulation shall 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***

***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 to external assistance [not yet published].***

*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.*

Amendment 40  
Article 25 a (new)

#### *Article 25a*

##### *Financial reference amount*

##### *1. The indicative financial framework for*

*the implementation of this Regulation is set at EUR 4 455 million for a period of seven years beginning on 1 January 2007.*

*2. If the legal scope of this Regulation is revised, the Commission shall present a proposal to adjust the financial reference amount accordingly.*

#### *Justification*

*The reference amount is consistent with EP's negotiating position (Böge report). It is the same as the Commission financial statement for this programme (in current prices) Furthermore, the reference amount for the financial framework cannot be set until such time that a decision has been reached on the Financial Perspective. Once a decision is reached, the Commission shall present, if necessary, a legislative proposal to set the reference amount with respect to the appropriate ceiling of the financial perspective (see amendments to the legislative resolution).*

#### Amendment 41 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 of this Regulation*

*Not later than 30 June 2010, the Commission shall submit to the European Parliament and the Council a report evaluating the implementation of this Regulation in the first three years together, if appropriate, with a legislative proposal introducing the necessary modifications hereto.*

#### *Justification*

*This is the standard text agreed between European Parliament, Council and Commission at the dialogue on the four proposals for external assistance instruments.*

#### Amendment 42 Article 28, paragraph 1

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from 1 January 2007.

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from 1 January 2007 *until 31 December 2013.*

### *Justification*

*This is the standard text agreed between European Parliament, Council and Commission at the trialogue on the four proposals for external assistance instruments.*



## **EXPLANATORY STATEMENT**

### **Tasks of the Instrument for Stability (IfS)**

The Instrument for Stability is new and part of the 'Prodi Package' (DCECI, NPI, IPA). The Union has hitherto lacked an instrument covering situations in which more needs to be done than short-term humanitarian aid (with a six-month mandate) but in which long-term development programmes are not yet or no longer feasible for structural reasons. For the major crises of recent years (Kosovo, Afghanistan and Iraq) separate ad hoc financial packages were put together in each case. The IfS is intended to close this gap.

The Instrument comprises two areas: short-term measures to tackle crises and long-term programmes, with the main funding emphasis on crisis-related measures.

Short-term crisis-related measures are specified for the following areas: non-military peace-making and peace-keeping measures as well as all reconstruction measures in the economic, administrative, judicial, governmental, welfare and communal fields following conflicts or natural disasters that are not covered by ECHO measures and that are not yet eligible for programmable aid under the geographical instrument.

Long-term measures comprise activities that cannot be implemented under the geographical instruments DCECI, NPI and IPA. These include the fight against terrorism and organised crime, the security of international transport and energy infrastructure, epidemics on an international scale, export controls on illicit trade and traffic in dangerous materials and dual-use goods as well as the ratification, implementation and monitoring of international agreements on early warning, conflict prevention and civilian crisis management.

Exceptional assistance and interim programmes are specified for crisis-related measures, while multiannual programmes are to be drawn up for long-term measures.

### **Current state of on-going negotiations. Differences between the various positions of Commission, Council and Parliament**

The Commission proposal initially included a section on nuclear safety as well. However, this would have excluded Parliament from the codecision procedure since nuclear issues are covered by Article 308 (for measures not provided for in the Treaties) which grants Parliament only a right of consultation. The Council and Parliament have meanwhile agreed to separate out nuclear aspects from the regulation. This means that the legal basis is not Article 308 but Articles 179 and 181a. Work has since begun on a text under the codecision procedure, initially under the Luxembourg and now under the British Presidency. The Council Presidency has altered the structure of the Commission text and, in the rapporteur's opinion, formulated it much more clearly. The attached amendments accordingly follow the structure and systematic approach of the Council proposal.

In terms of content, there are differences of opinion between the rapporteur and the Commission on the one hand and the Council on the other hand as to the exact definition of support for peace and disarmament measures as well as the non-proliferation of non-nuclear

weapons. The rapporteur supports the Commission in seeking greater room for manoeuvre both in terms of tasks and implementation. At the same time, she is seeking to arrive in future at a system that would allow Parliament more effectively than hitherto to participate through a regular exchange with the Commission in the strategic decisions under the IfS and to monitor their implementation.

On the decision-making procedure, there are differences mainly between Parliament on the one hand and the Council and Commission on the other. There is still uncertainty at the Commission about the exact definition of the individual decision-making phases. Until such time as the various concepts and the relationship between 'multiannual (indicative?) programmes', 'multiannual framework', 'strategy papers', 'policy framework', etc. (see Article 7) have been clarified by the Commission, it is not possible to determine Parliament's precise scope for action. The present amendments reflect the current state of knowledge and are intended to lay down a basic line for Parliament to take in future negotiations. The amendments do not yet take account of the Commission's plan to specify the details of all new financial instruments (both in terms of content and of funding) in a multiannual indicative framework. Having regard to the earlier precedents (the MEDA programme) and to the conclusion of the opinion of Parliament's Legal Service on indicative programmes and strategy papers, your rapporteur assumes that an MIF of this type is covered by codecision. To clarify this, the Commission is urgently required to table its proposals.

### **The timetable**

In order to facilitate a timely transition between the old and the new financial instruments, this regulation must enter into force by 1 January 2007. Parliament and the Council have barely 18 months to reach an agreement on the present proposal. A legislative procedure involving codecision lasts on average almost two years. This means that the committee must aim for agreement on first reading in order to adopt the new regulation in time. The rapporteur accordingly requests instructions from the Committee on Foreign Affairs to seek agreement with the Council, where possible, on first reading. She undertakes to update the committee regularly on the state of negotiations and to incorporate the outcomes of the parallel negotiations on the other instruments, especially the DCECI and the NPI in her work. If the committee in November endorses these proposals concerning the procedure to be followed, it should adopt only the amendments and not the report as a whole. Otherwise the procedure at committee level would then be concluded and no changes emerging from the negotiations with the Council could subsequently be made to the amendments.

## OPINION OF THE COMMITTEE ON LEGAL AFFAIRS ON THE LEGAL BASIS

Mr Elmar Brok  
Chairman  
Committee on Foreign Affairs  
BRUSSELS

Subject: Legal basis of the proposal for a Council regulation establishing an Instrument for Stability (COM(2004)0630 – C6-0251/2004 – 2004/0223(COD))<sup>1</sup>

Dear Mr Chairman,

By letter of 2 June 2005 you asked the Committee on Legal Affairs pursuant to Rule 35(2) to consider whether the legal basis of the above Commission proposal was valid and appropriate.

The Committee considered the above question at its meeting of 13 July 2005.

The proposal is based on Article 308 of the EC Treaty in conjunction with Article 203 of the Euratom Treaty. The Euratom legal basis is said to be necessary in order to cover the nuclear safety aspects of the proposal.

In this instance, consultation of Parliament is required.

The case law of the Court of Justice of the European Communities clearly indicates that the choice of legal basis is not at the discretion of the Community legislator but must be determined by objective facts which can be subject to judicial control. These facts include, in particular, the objective and substance of the legislative instrument<sup>2</sup>.

The objective of the regulation is stated precisely in 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.'

The substance of the proposal is clearly concerned with providing 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 (Article 2).

Article 308 of the EC Treaty permits the Community to adjust its powers in the light of the

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<sup>1</sup> Not yet published in the OJ.

<sup>2</sup> Cf. in particular the judgment of the Court of Justice of 23 February 1999 in Case C-42/97, Parliament v. Council, ECR 1999, p. I-869, point 36.

powers and with a view to attaining the objectives of the Treaty.

In order to take the aforementioned article as a legal basis for a legislative instrument, the Court of Justice has consistently held that the following conditions must be met:

- the action envisaged must have the aim of attaining one of the objectives of the Community;
- the action must be necessary for the attainment of that objective;
- the Treaty must not otherwise confer powers to act for this purpose.

From a consideration of the subject and substance of the proposal it may be concluded that the civil aspects of tackling crises fall rather under Articles 179 and 181a of the EC Treaty, which does not justify the choice of Article 308 of the EC Treaty as a legal basis.

The Committee on Foreign Affairs has accordingly concluded that Articles 179 and 181a of the EC Treaty are the appropriate legal basis and that, in view of the incompatibility between those articles and Article 203 of the Euratom Treaty, it is necessary to submit a separate proposal concerning the aspects relating to nuclear safety measures.

The codecision procedure would therefore apply.

At its meeting of 13 July 2005 the Committee on Legal Affairs accordingly decided, unanimously<sup>1</sup>, on the basis of the above considerations and at the proposal of the rapporteur for legal bases, Mr Antonio López-Istúriz White, that:

- the legal basis for the above proposal for a regulation should be Articles 179 and 181a of the EC Treaty, not Article 308 of the EC Treaty;
- in view of the incompatibility between those articles and Article 203 of the Euratom Treaty, the Commission should submit a separate proposal concerning the aspects involving nuclear safety measures.

Yours sincerely,

Giuseppe Gargani

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<sup>1</sup> The following were present for the vote: Giuseppe Gargani (chairman), Katalin Lévai (vice-chairwoman), Antonio López-Istúriz White (draftsman), Maria Berger, Monica Frassoni, Piia-Noora Kauppi, Kurt Lechner, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Hans-Peter Mayer, Manuel Medina Ortega (for Nicola Zingaretti), Viktória Mohácsi, Aloyzas Sakalas and Tadeusz Zwiefka.

17.11.2005

## **OPINION OF THE COMMITTEE ON DEVELOPMENT(\*)**

for the Committee on Foreign Affairs

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

Draftsman(\*): Pierre Schapira

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

### **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 name<sup>1</sup>, 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

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<sup>1</sup> 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.

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 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<sup>1</sup>

Amendments by Parliament

Amendment 1  
Title and citations

Proposal for a

Proposal for a

<sup>1</sup> Not yet published in OJ.

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 **Article 308** 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,

***Having regard to the opinion of the European Parliament,***

**EUROPEAN PARLIAMENT AND COUNCIL REGULATION**

establishing an Instrument for Stability

**THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION**

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

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

*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

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

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).

#### *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 Community shall ***engage in development-aid schemes and schemes involving economic, financial and technical cooperation with 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.***

***a) 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.*

*b) In the context of stable conditions for cooperation, this aid and cooperation are intended to help build capacity in third countries to address specific global and transregional issues having a potentially destabilising effect.*

*- 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, 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.*

*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.*

#### *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.*

*Point b), however, reintroduces long term cooperation in stable conditions.*

Amendment 4  
Article 1 a (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***

***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:***

*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 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;**

*A. Measures in response to situations of crisis or emerging crisis or continued political instability*

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

- (a) 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) military monitoring and peace-keeping or peace-support operations 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;*
- (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*

*- 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 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*

*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 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 support the development of civil society and its participation in the political process, including measures to promote independent, pluralist and professional media;*

*(h) measures in response to crisis situations which will safeguard, re-start or establish*

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

*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 the special needs of female soldiers) and measures intended to mitigate the social impact of the 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;*

*(k) measures to ensure the meaningful integration of women as active participants in crisis management, conflict resolution, post-conflict reconstruction and reconciliation, as well as measures to ensure that the specific needs of women in crisis and conflict situations, including their exposure to gender-based violence, are adequately met, as enshrined in Security Council Resolution 1325 (2000);*

*(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.*

*(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;*

*B. Cooperation with third countries in the context of stable conditions for co-operation*

*The Community may adopt measures in pursuit of the objectives of Article 1(b) where their effectiveness depends on delivery through global and trans-regional strategies and mechanisms or where they contribute to the development of effective international capacities for crisis response.*

*(a) strengthen the capacity of law enforcement and judicial authorities involved in the fight against terrorism as well as organized crime, including trafficking of drugs, people and firearms and the effective control of illegal trade and transit; such measures must comply with EU Member States' obligations under international law, in particular human rights law, refugee law and international humanitarian law;*

*(b) strengthen the international framework for the protection of human rights and*

- **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; 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,<sup>1</sup> European Neighbourhood and Partnership Instrument<sup>2</sup> or the Integrated Pre-accession Instrument.<sup>3</sup>**

**(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**

**support international action for the promotion of democracy;**

**(c) security and safety of international transport and energy operations and infrastructure, including passenger and freight traffic and energy distribution;**

**(d) measures to ensure an adequate response** to sudden major threats to public health, such as epidemics with a potential trans-national impact;

**(e) strengthen the capacity of the authorities involved in the effective control and detection of illicit traffic in potentially dangerous materials, including through the installation of modern logistical evaluation and control equipment;**

**(f) support for the development of the legal framework and institutional capacities for the establishment and enforcement of effective export controls on dual-use goods, including measures of regional co-operation;**

**(g) support for the development of effective disaster-preparedness, emergency-planning, and capabilities for clean-up measures, including in relation to possible major environmental incidents, and in relation to industries where there is a potential for major environmental incidents**

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<sup>1</sup> OJ L [...], [...], p. [...].

<sup>2</sup> OJ L [...], [...], p. [...].

<sup>3</sup> OJ L [...], [...], p. [...].



*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 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*

*with international implications;*

*(h) support for the strengthening of national and international legal frameworks as well as international and regional cooperation in the above fields, including the exchange of information and risk/threat assessment, research and analysis, early warning systems and training.*

***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*

*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.*

*As a consequence of the change of legal basis decided in the inter-institutional trilogue, this amendment proposes to withdraw from the scope of these long term actions all elements linked to nuclear and non proliferation aspects.*

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-encompassing 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) 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 3b**  
**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 3c*

***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 United Nations.***

*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  
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 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***

***Exceptional assistance measures***

1. Community measures under this Regulation shall be carried out through exceptional assistance measures or interim response programmes, or multi-annual 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 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 European Parliament and to the Council , 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.***

*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.*

#### *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 comitology.*

#### *Amendment 13 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*

##### *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 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*

*amounts of the measures adopted.*

*agreements with third countries or other basic acts governing external assistance, provided that this is compatible with appropriate measures adopted by the Council.*

*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 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 a 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*

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



*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, 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.*

*3. 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.*

*4. 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 14  
Article 6, title

Special provisions applicable to peace-  
**support** operations

Special provisions applicable to peace-  
**keeping** operations

Amendment 15  
Article 6, paragraph 1

**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*

**1. In accordance with the principles of responsibility and appropriateness regarding development cooperation policies, the initiative for requesting support measures for peace-keeping operations shall belong solely to regional and subregional organisations and other coalitions of beneficiary countries.**

Before adopting such measures 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 United Nations endorsement defined in broad terms.*

The Commission shall *also* establish that operations *aim solely to re-establish conditions of stability essential for the resumption of human and social development in the conflict zone and that financial and technical resources provided by the Community are used only in keeping with the objectives of European development policy.*

***reporting to the Council.***

*Justification*

*If the Community is to be awarded responsibility for supporting peace-keeping operations, then the conditions for providing Community support should be clearly set out. The objectives pursued in peace-keeping operations receiving Community financial support should concern only the resumption of development in the area affected by conflict. The only interest in intervening militarily should be the development of the destabilised population. Parliament and the Council will ensure that the operations funded comply with this aim.*

Amendment 16  
Article 6, paragraph 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.***

***As soon as possible and, in any case, before adopting such measures, the Commission will consult Parliament and the Council on the appropriateness of granting Community support. When taking its decision, the Commission will take the utmost account of the political will voiced by Parliament and the Council in their respective resolutions and conclusions.***

***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.***

***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. The Council shall undertake to make available to the Commission all useful resources that its members can offer to assist the Commission in this task.***

*Justification*

*See justification for amendment to Article 6(1).*

Amendment 17

## 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 18

### Article 12, paragraph 2

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

2. Non-state actors eligible for financial support under this Regulation shall include: non-governmental organisations, ***local 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 19

### Article 13, indent 6

***- debt-relief programmes;*** *deleted*

Amendment 20  
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 Commission Delegations to manage projects funded under this Regulation.

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. ***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 21  
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 22

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 23

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

***2. Participation in the award of procurement or grant contracts financed under this Regulation shall 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***

***The rules on eligibility and origin which are applicable to this Regulation shall be those laid down in European Parliament and Council Regulation No.../... on access to external assistance [not yet published].***

*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.*

Amendment 24  
Article 23

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 25 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 26  
Article 26 a (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.*

## PROCEDURE

<b>Title</b>	Proposal for a European Parliament and Council Regulation establishing an Instrument for Stability
<b>References</b>	COM(2004)0630 – C6-0251/2004 – 2004/0223(COD)
<b>Committee responsible</b>	AFET
<b>Opinion by</b> Date announced in plenary	DEVE 11.1.2005
<b>Enhanced cooperation – date announced in plenary</b>	13.1.2005
<b>Draftsman</b> Date appointed	Pierre Schapira 2.12.2004
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	21.6.2005      13.7.2005      5.10.2005
<b>Date adopted</b>	14.11.2005
<b>Result of final vote</b>	+: 20 -: 2 0: 0
<b>Members present for the final vote</b>	Margrete Auken, Alessandro Battilocchio, Marie-Arlette Carlotti, Thierry Cornillet, Nirj Deva, Fernando Fernández Martín, Michael Gahler, Filip Andrzej Kaczmarek, Ģirts Valdis Kristovskis, Miguel Angel Martínez Martínez, Gay Mitchell, Luisa Morgantini, Jürgen Schröder, Feleknas Uca, Anna Záborská.
<b>Substitute(s) present for the final vote</b>	Marie-Hélène Aubert, Ana Maria Gomes, Manolis Mavrommatis, Karin Scheele, Zbigniew Zaleski
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Elisa Ferreira, Pier Antonio Panzeri.
<b>Comments (available in one language only)</b>	

11.10.2005

## **OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE**

for the Committee on Foreign Affairs

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

Draftsman: David Martin

### **SHORT JUSTIFICATION**

#### **Introduction**

The Instrument for Stability is one of four new external aid instruments proposed by the Commission in the so-called Prodi package. It should become effective together with the new financial perspective on 1 January 2007.

The purpose of the Stability Instrument is to deliver an effective, immediate and integrated response to situations of crisis in third countries within a single legal instrument until normal cooperation under one of the other instruments for cooperation and assistance can resume.

Crisis response can currently trigger as many as seven separate EC financing instruments, each with its own decision-making procedures and budgetary constraints.

The Stability Instrument is designed to consolidate crisis response mechanisms and improve crisis-response by:

1) Ensuring proper linkages between the initial response and follow-up assistance delivered under the main long-term 'policy driven' instruments.

2) Increasing the flexibility of the Commission's disaster response and strengthening the coherence between EC assistance and the EU's CFSP instruments.

In addition to immediate "crisis response", the Stability Instrument is also intended to address transregional challenges affecting civilian security such as the fight against trafficking, organized crime, terrorism and, originally, nuclear safety. Following the example of the African Peace Facility, the Instrument for Stability also includes potential funding of

international peace-keeping or peace-support capacities in partnership with regional organizations.

## **General appraisal of the Commission proposal**

While welcoming the overall objective of simplifying and rationalising the legislative instruments relating to external policy, Parliament has stated that the package of new Commission proposals seriously impinges on the powers currently exercised by Parliament in conformity with the treaties under co-decision and the annual budgetary procedure.

Over the last few months, at the request and initiative of the EP, several trilateral meetings (European Parliament, Council and Commission) have been held in order to discuss the reform of the instruments of external assistance.

While substantial work remains, the trilateral discussions have led to some progress on several issues that relate to the Instrument for Stability (expiry clause, review clause and legal base). The proposals submitted by the Council's Presidency, which have been used as provisional reference texts for the amendments put forward by the draftsman, represent a positive yet not fully satisfactory step forward.

As Committee responsible for "financial, economic and trade relations" with third countries, the International Trade Committee (INTA) is involved in the parliamentary scrutiny of the 4 new financial instruments. Although trilateral contacts should continue to deliver results in the future, because of calendar reasons, INTA has been the first parliamentary committee to formally consider an opinion on the Instrument for Stability. The original draft opinion was therefore only a first, preliminary step in the parliamentary process of reviewing and amending the Commission's proposal.

The following are, in summary, the main points raised by the draftsman at this stage:

### **1) Legal basis**

In line with the European Parliament's position, Council has agreed that Articles 179 (development policy) and 181a (economic, financial and technical cooperation with third countries) form the appropriate legal basis for the Instrument for Stability as long as the aspects relating to nuclear safety, which play a rather marginal role, are removed from the proposal. The change of legal basis grants Parliament the right of co-decision.

In response to the change of legal basis, the EU Presidency has tabled a proposal excluding nuclear safety, non-proliferation of nuclear technology and "peace-support" measures from the regulation. The Commission will be submitting a new separate regulation under Article 308 dealing with the chapters on nuclear safety and proliferation. The draftsman welcomes the change of legal basis but disagrees, as further elaborated, with the exclusion of peace-support measures.

### **2) Review Clause**

Thanks to Parliament's initiative, an agreement has emerged on a review clause which

provides for better reporting and the possibility of introducing, at a later stage, the necessary modifications to the regulation.

### **3) Expiry dates**

All instruments should include an expiry-date which should coincide with the end of the next Financial Perspective, foreseen for 2013. The Böge report calls for the financial perspective to run only until 2011.

### **4) Involvement of Parliament**

The Commission has proposed that Parliament delivers its opinion on the multiannual indicative programmes as part of the strategic setting of priorities for the four instruments. This solution, however, is not satisfactory. The Instrument for Stability, for instance, replaces a significant number of regulations currently adopted under the co decision procedure. Mere consultation or information cannot become a substitute for the powers currently exercised by Parliament as one arm of the legislative and budgetary authority. Key programming "strategic documents" establishing policy priorities and fund allocations are, across the four instruments, acts of a clear political nature. It can therefore be argued that key programming documents (i.e multiannual programmes or key strategy papers) should be adopted by the European Parliament and Council under an arrangement that mirrors the spirit, if not letter, of the co-decision procedure (art 251).

### **5) More clarity in the definition of objectives and measures**

The Commission proposal defines the objectives and measures to be carried out under the Instrument for Stability in a rather open and loose-ended manner. In order to improve clarity and for the sake of legal certainty, the draftsman supports a clearer and more structured definition of objectives and measures with no room for expressions such as "inter alia", 'new' and 'other' policy initiatives, or "such other measures as may be required".

### **6) Scope: Peace-Support**

The scope of the instrument for stability needs to be defined carefully, particularly with regard to peace-support related assistance. At the time of writing this opinion, Commission and Council continue to disagree about the exact demarcation between actions falling between or under both the first and the second pillars. According to the Council's Legal Service, the objective of 'promoting peace and stability in third countries' set out in Article 1, first subparagraph, falls outside the Community's competence.

The opinion of the Parliament's Legal Service, supported by the draftsman and reflected in this draft opinion, comes to a different conclusion: non-military peace-support measures contribute to the goal of developing and consolidating democracy and the rule of law in third countries and thereby fall as well under the Community (first pillar).

The hard truth is that today's challenges are not structured along any institutional delimitation of competences. Moreover, experience shows that more support needs to be given to activities that fall precisely in the grey area between traditional foreign and development policies.

That is why the Instrument for Stability should allow the EU to respond to crises by building bridges between Community action and CFSP operations. In any event, the accent should therefore be placed on the best ways for the Commission and Council to facilitate cross-pillar coordination and combine and strengthen their roles.

In any event, actions relating to peace-support operations should not reflect the security interests of the donors but of the beneficiaries. Likewise, in the case of security-related operations, European security interests and the interests of the beneficiary countries in terms of stability and development should not be confused.

## AMENDMENTS

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

Text proposed by the Commission <sup>1</sup>	Amendments by Parliament
<b>Amendment 1</b>	
Title	
Proposal for a <i>regulation of the Council</i> establishing an Instrument for Stability	Proposal for a <b><i>European Parliament and Council regulation</i></b> establishing an Instrument for Stability
<i>Justification</i>	
<i>In contrast to the development and accession instruments, to be adopted under codecision, the Commission provides only for simple consultation in this proposal on the grounds that the Instrument for Stability is also intended to cover nuclear safety.</i>	
<i>However, Articles 179 (development policy) and 181a (economic, financial and technical cooperation with third countries) form the appropriate legal basis for the Instrument for Stability as long as the aspects relating to nuclear safety, which play a rather marginal role, are removed from the proposal. The change of legal basis grants Parliament the right of codecision.</i>	
<b>Amendment 2</b>	
Citation 1	
Having regard to the Treaty establishing the European Community, and in particular	Having regard to the Treaty establishing the European Community, and in particular

<sup>1</sup> OJ C ... /Not yet published in OJ.

*Article 308* thereof,

*Articles 179(1) and 181a* thereof,

*Justification*

*See justification to Amendment on Title.*

Amendment 3  
Title I

**TITLE I - OBJECTIVES**

**TITLE I - OBJECTIVES AND SCOPE**

Amendment 4  
Article 1

General objectives *and scope*

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, trafficking and terrorism;*

- *major technological threats with potential*

General objectives

*1. The Community shall provide financial, economic and technical assistance* to promote peace and stability , *develop and consolidate democracy and the rule of law, promote respect for human rights* and assure the safety and security of the civilian population in third countries and territories *under the conditions set out in* this Regulation.

*2. Such assistance shall:*

*a) provide* an effective, timely, *flexible* and integrated response *to help establish, re-establish or maintain the conditions which are essential to permit the effective implementation of the Community's development assistance and cooperation policies and thereby* to prevent, attenuate or address the consequences of crisis situations, severe political instability or violent conflict;

*b) further the cooperation between the Community and third countries in the context of stable conditions in order to address major trans-border, trans-regional and global issues with a potentially destabilising effect, challenging the rule of law or affecting the security or the human rights and fundamental freedoms of citizens.*



*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*

*The Commission proposal defines the objectives and measures to be carried out under the Instrument for Stability in a rather open and loose-ended manner. In order to improve clarity and for the sake of legal certainty, the draftsman supports a clearer and more structured definition of objectives and measures with no room for expressions such as "inter alia", 'new' and 'other' policy initiatives, or "other measures as may be required". New Article 1 is now structured, following the very logic of the Commission's proposal, in two general objectives: crisis-response and cooperation in the context of more stable conditions, which are further elaborated in articles 2 and 3.*

#### *Amendment 5 Article 1a (new)*

##### *Article 1a*

***General Principles: Motivation, Coherence and Complementarity, Coordination and Visibility of Community Assistance***

***1. When providing assistance under the conditions set out in this Regulation, the Commission shall inform the Council and the European Parliament of the reasons for and value added by the use of this Regulation instead of or in addition to any assistance normally provided under the Regulations establishing the Humanitarian Aid instrument, the Integrated Pre-accession instrument, the European Neighbourhood and Partnership instrument, the Development Cooperation***

*and Economic Cooperation instrument, the European Initiative for Democracy and Human Rights (EIDHR) as well as the Community assistance provided under the thematic programmes financed by the above instruments (hereafter referred to as the normal instruments for co-operation).*

*Community cooperation under this Regulation shall be provided only if it can not be covered by the above instruments and if it can be provided more effectively under this instrument.*

*2. Community assistance under this Regulation shall be coherent with and complementary to that provided under the normal instruments for co-operation.*

*3. The Commission shall ensure that measures adopted under this Regulation are consistent with the Community's overall strategic policy framework for the partner country, and in particular with the objectives of the above instruments, as well as with other development and economic co-operation programmes adopted pursuant to Articles 179 and 181a of the Treaty establishing the European Community.*

*4. The Commission shall ensure that any measure undertaken under this Regulation is coordinated with the Member States and other relevant international and regional organisations.*

*5. The Commission shall ensure that measures adopted under this Regulation are given appropriate publicity and enhanced visibility in order to raise awareness about the need for and value added by EU external intervention.*

#### *Justification*

*This new article brings together crucial safeguards regarding the need for motivation, coherence and complementarity, coordination and visibility of measures adopted under this regulation.*

*The need and added value for using the Instrument for Stability, as opposed to the normal*

*instruments for co-operation should be duly justified by the Commission. The principle of complementarity, which is a rather weak requirement, should be strengthened by adding the need for coherence with other assistance. As a general rule, the visibility of EU's external action should be improved and its added value should be better explained.*

Amendment 6

Article 2 introductory part and point (a)

***Purpose***

***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 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

***Measures in response to situations of crisis or emerging crisis or continued political instability***

***1. The Community may take measures in pursuit of the objectives set out in Article 1(2)(a) in response to a situation of urgency, crisis or emerging crisis, a situation posing a threat to law and order, to the protection of human rights and fundamental freedoms, to the security and safety of individuals, a situation threatening to escalate into armed conflict or to severely destabilise the third country or countries concerned. Such measures may also address situations of continued political instability, situations arising out of unresolved conflicts, major post-conflict or post-disaster challenges and situations where the Community has invoked the essential clauses of international agreements with third countries or of other basic acts governing external assistance.***

***2. Such Community assistance shall cover the following areas:***

***a) technical and financial 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 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**;

or ceasefire agreements between the parties;

**b) technical and financial support for** peace-keeping **and** peace-support operations conducted by regional and sub-regional organisations operating with United Nations endorsement **and in accordance with the principles of the United Nations Charter**; measures to build the capacity of such organisations and their participating members to plan, execute and ensure effective political control over such operations;

**c)** measures in response to natural or man-made disasters **and threats to public health** in the absence of or to complement **Community** humanitarian assistance;

**d) support for the civilian aspects of the** demobilisation of **former** combatants **and their reintegration into civil society and, where appropriate, their repatriation**;

**e)** measures to address **the effects on the civilian population of** anti-personnel mines, unexploded ordnance or other explosive devices, and other harmful remnants of war; including the clearance and destruction of stockpiles;

**f) technical cooperation against the dissemination of small arms and light weapons**;

**g)** support **for the establishment and** operation of internationally-mandated interim administrations;

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

*h) support for the initial measures to establish democratic, pluralistic state institutions, effective civilian administration at national and local level, an independent judiciary, good governance and law and order, including technical cooperation to reform the security system and strengthen civilian control over it;*

*i) support for initial* measures to promote and defend respect *for* human rights and fundamental freedoms, democratic principles and the rule of law, and of the principles of international law, including support *for* 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;

*j) measures to strengthen civil society and support its participation in the political process; including measures to promote an independent and professional media;*

*k) initial support for the rehabilitation and reintegration of the victims of armed conflict and natural disasters;*

*l) initial* measures *to start* the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, *as well as* essential productive capacity, and for the re-starting of economic activity and the generation of employment ;

*m) other initial* measures, *falling within the scope of the assistance provided under the normal instruments of co-operation, which* may be required to facilitate the effective transition to the normal conduct of cooperation in the framework of the medium and long-term external *policies* and programmes of the Community.

***- The Commission shall ensure that measures adopted are consistent with the Community's overall strategic policy framework for the partner country, and in particular with the objectives of its development and economic cooperation policies and programmes adopted pursuant to Articles 179 and 181a of the Treaty establishing the European Community.***

*Justification*

*See also Justification to Amendment on Article 1. This new article defines in a limitative way the measures that may be carried out in response to crisis. It includes peace-support operations with UN endorsement and restricts the definition of measures to be funded.*

Amendment 7  
Article 2, points (b), (c) and (d)

***Article 2a***

***Cooperation with third countries in the context of stable conditions for co-operation***

***(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;***

***- strengthen the international framework for the protection of human rights and support international action for the***

***1. The Community may adopt measures in the context of stable conditions for co-operation in pursuit of the objectives of Article 1 (2) (b) where their effectiveness depends on delivery through trans-border, trans-regional or global strategies and mechanisms and where such measures cannot be covered by the normal instruments of co-operation and can be provided more effectively under this instrument.***

***2. Such Community assistance shall cover the following areas:***

***a) strengthening*** the capacity of ***the*** law enforcement and judicial authorities ***involved*** in the fight against terrorism, ***as well as organised*** crime, including trafficking ***and*** the effective control of illegal trade and transit;

***promotion of democracy;***

- ***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;***

***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,<sup>1</sup> European Neighbourhood and Partnership Instrument<sup>2</sup> or the Integrated Pre-accession Instrument.<sup>3</sup>***

***(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***

***b) security and safety of international transport and energy operations and infrastructure, including passenger and freight traffic and energy distribution;***

***c) measures to ensure an adequate response*** to sudden major threats to public health, such as epidemics with a potential trans-national impact;

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<sup>1</sup> OJ L [...], [...], p. [...].

<sup>2</sup> OJ L [...], [...], p. [...].

<sup>3</sup> OJ L [...], [...], p. [...].

*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 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*

*d) the reduction of stockpiles of weapons-related chemical and biological agents, and the enhanced safety and security of installations handling such materials or their precursors as well as the dismantlement, remediation or conversion of related storage or production facilities, where these are declared as no longer belonging to a defence programme;*

*e) 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;*

*f) strengthening the capacity of the authorities involved in* the effective control and detection of illicit traffic in potentially dangerous materials, including through the installation of modern logistical evaluation and control equipment;

*g) support for* the development *of the legal framework and institutional capacities required for the* enforcement of effective export controls on dual-use goods;

*h) support for* the establishment of effective disaster-preparedness, emergency-planning and clean-up measures in relation to possible major environmental incidents, *and* in relation to industries where there is a potential for major environmental incidents with international implications;



***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.

**i)** 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, ***including risk/threat assessment***, research and analysis, early warning systems, including for the prevention of conflict, and training for civilian crisis management.

*Justification*

*See also Justification to Amendment on Article 1. This new article defines in a limitative way the measures that may be carried out in the context of stable conditions. It strengthens the safeguards included in article 1a by stating that measures in pursuit of the objectives of Article 1 (2) (b) where their effectiveness depends on delivery through trans-border, trans-regional or global strategies and mechanisms can only be adopted if they cannot be covered by the normal instruments of co-operation and can be provided more effectively under this instrument.*

Amendment 8  
Article 3

***Article 3***

***deleted***

***Other initiatives***

***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*

*See also Justification to Amendment on Articles 2 and 2a (new). This open ended article on "other initiatives" is no longer needed since previous articles define in a limitative way the measures that may be carried out under this Regulation.*

Amendment 9  
Article 5

***Special provisions relating to exceptional***

***Exceptional*** assistance and interim response

assistance and interim response 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 Community's role within the broader*

programmes

1. *Measures under article 3 above shall be carried out through exceptional assistance measures or interim response programmes.*

2. *The Commission may adopt exceptional assistance measures where the effectiveness of the measures is dependent on rapid or flexible implementation and where the action could not be undertaken within a reasonable time limit in the framework of the procedures referred to in Article 23 below. The Commission shall inform the Council and the European Parliament before adopting such measures and shall keep the Council and the European Parliament regularly informed on its planning of exceptional assistance measures under this Regulation, including their objectives and financial implications. The Commission shall take due account of the approach adopted by the Council both in its planning and subsequent implementation of such measures.*

3. *At as early a stage as possible, following the adoption of exceptional assistance measures, and in any case every six months of doing so, the Commission shall report to the Council and the European Parliament by giving 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, regional or thematic strategies referred to in Article 7, and the Community's role within the broader international and multilateral response. It*

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 a 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**

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.

4. The Commission may, *following the adoption of exceptional assistance measures*, adopt an interim response programme, building on the exceptional assistance measures adopted, *with a view to* the resumption of normal co-operation if this is possible. **The Commission shall indicate in its six-monthly report the reasons why it has decided not to adopt an interim response programme to replace the exceptional assistance measures.**

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 3 above, such strategies shall provide the basis for the interim programme.

5. 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 **and to the European Parliament.**

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

*those of the Member States, 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.*

*Justification*

*This article brings clarity to the procedure and conditions under which the Commission may adopt exceptional assistance measures and interim response programmes. The requirements for an adequate information of the Council and the European Parliament are strengthened.*

Amendment 10  
Article 7, points 1 and 2

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.

1. *Measures under article 2a new above shall be carried out as multi-annual programmes.*

*Multi-annual indicative programmes shall consist of measures designed to address long-term issues in the context of stable conditions for co-operation. Such programmes shall be based on strategy papers, which shall be established for a period compatible with the priorities set in the policy framework, with a view to providing a coherent framework for donor and partner-country co-ordination.*

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, regional **or thematic strategies adopted under other Community instruments for external assistance**.

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.

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

#### *Justification*

*This amendment simplifies the programming exercise and defines more precisely the contents of multi-annual indicative programmes.*

#### Amendment 11 Article 8, point 1

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)***.

1. ***Before adopting the*** strategy papers and multi-annual indicative programmes referred to in Article 7 and any revision thereof, ***the Commission shall submit to the European Parliament and to the Council a proposal. Within three months of its submission, if it is considered that the proposal does not meet the objectives laid down by the legislative authority, the European Parliament and the Council may initiate the procedure to adopt, amend or reject the proposal*** in accordance with the procedure laid down in ***Article 251 of the Treaty***.

***The Commission shall consult the European Parliament and the Council before adopting multi-annual indicative programmes. It shall duly take into account the views of the legislative authority and indicate in the annual report provided for under Article 24 to what extent it has followed the opinion of the European Parliament and the Council.***

#### *Justification*

*The Parliament's Legal Service has noted that some of the decisions which would be delegated to the Commission via the comitology procedure are of discretionary nature and imply policy choices which are the prerogative of the legislator. Indeed, key programming "strategic documents" establishing policy priorities and fund allocations are, across the four*

*instruments, acts of a clear political nature. It can therefore be argued that, if it is considered that the proposal does not meet the objectives laid down by the legislative authority, key programming documents (i.e multiannual programmes or key strategy papers) should be adopted by the European Parliament and Council under an arrangement that mirrors the spirit and letter of the co-decision procedure (art 251).*

Amendment 12  
Article 27 a (new)

**Article 27a**

***Not later than 30 June 2010, the Commission shall submit to the European Parliament and the Council a report evaluating the implementation of this Regulation together with a legislative proposal introducing the necessary modifications.***

*Justification*

*This "review" clause provides for better reporting and the possibility of introducing, at a later stage, the necessary modifications to this "enabling" regulation. This is particularly important given that the new instrument is far-reaching in its scope, has not been tested and replaces a significant number of currently co-decided instruments. The Böge report calls for the financial perspective to run only until 2011. The date of the review will depend on the final expiry date of the regulation, which should coincide with the expiry date of the new financial perspectives.*

Amendment 13  
Article 28

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from 1 January 2007.

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from 1 January 2007 ***until the end of the financial perspective due to start in 2007.***

*Justification*

*All instruments should include an expiry-date which should coincide with the end of the next Financial Perspective, foreseen for 2013. The Böge report, however, calls for the financial perspective to run only until 2011.*

## PROCEDURE

<b>Title</b>	Proposal for a regulation of the European Parliament and of the Council establishing an Instrument for Stability
<b>References</b>	COM(2004)0630 – C6 0251/2004 – 2004/0223(COD)
<b>Committee responsible</b>	AFET
<b>Committee asked for its opinion</b> Date announced in plenary	INTA 11.1.2005
<b>Enhanced cooperation</b>	No
<b>Draftsman</b> Date appointed	David Martin 18.11.2004
<b>Discussed in committee</b>	12.7.2005      13.9.2005
<b>Date amendments adopted</b>	11.10.2005
<b>Result of final vote</b>	for:                      23 against:                0 abstentions:            1
<b>Members present for the final vote</b>	Jean-Pierre Audy, Enrique Barón Crespo, Jean-Louis Bourlanges, Nigel Farage, Béla Glattfelder, Jacky Henin, Alain Lipietz, Erika Mann, Helmuth Markov, David Martin, Javier Moreno Sánchez, Georgios Papastamkos, Tokia Saïfi, Peter Šťastný, Johan Van Hecke, Zbigniew Zaleski.
<b>Substitutes present for the final vote</b>	Panagiotis Beglitis, Danutė Budreikaitė, Elisa Ferreira, Filip Andrzej Kaczmarek, Jörg Leichtfried, Antolín Sánchez Presedo, Mauro Zani.
<b>Substitutes under Rule 178(2) present for the final vote</b>	Syed Kamall.

25.10.2005

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on Foreign Affairs

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

Draftsman: Antonis Samaras

### **SHORT JUSTIFICATION**

1. The proposal is presented under Article 308 of the Treaty as well as under Article 203 of Euratom (to cover nuclear safety elements of proposal). Following opinions from the legal services, it has been agreed between the Foreign Affairs Committee and the Presidency, during the ongoing discussions, that co-decision shall be applied. However, in exchange, it is expected that some elements concerning the peace-operations and nuclear non-proliferation aspects will be "lifted out" from the proposal.
2. Although it is not for the Budget Committee to comment in detail on this matter, the rapporteur still wishes to underline that all the competencies of the Community under the "1st pillar" should be maintained. The stability instrument must, therefore, contain activities that should be financed under Articles 179 and 181A of the Treaty establishing the European Community as well as certain activities which fall under Article 203 of the Treaty establishing the European Atomic Energy Community. The rapporteur believes that it is highly unreasonable for the Council to expect to move all or some of these actions to the CFSP and then count on Parliament to "automatically" agree to higher CFSP financing, yet with little influence over its policies.
3. Moreover, the rapporteur insists that any changes in the scope of the Regulation compared to the initial proposal should be accompanied by a clear indication of the financial impact of such changes as well as by a proposal for a revised financial framework. The rapporteur has included a financial framework for the whole duration of the proposed regulation since the Interinstitutional Agreement of 6 May 1999 requires such a framework for co-decided acts. The amount is in line with the vote of the plenary and the temporary committee.
4. The draft regulation aims to provide financial and economic assistance to cover three



distinct main issues:

- to respond to crises and threats to human rights and democracy
  - to expand co-operation between EU and third countries in relation to global and regional trans-border challenges affecting the security of citizens
  - to work against technological threats and combat the proliferation of weapons of mass destruction.
5. The proposal must aim to ensure complementarity with the "policy-driven" instruments: the Pre-Accession Instrument, the Neighbourhood Instrument and the Development and Economic Cooperation Instrument. There should be a unified programming, based on country/region strategies and on bridging the core policy instrument with the added elements brought about from the Stability Instrument. Assurances of greater transparency to avoid overlaps and to improve the efficiency of the actions envisaged should also be provided.
6. The rapporteur proposes to establish a procedure whereby the multi-annual policy strategy papers should be presented to Parliament and should contain indicative financial allocations. This would enable Parliament to retain influence over important policy-aspects of foreign policy but, at the same time, accommodate the need for more flexible interventions without having to go through an entire co-decision procedure in order to modify the whole regulation (normally a procedure of at least 1,5 years). The indicative financial allocations should be presented without prejudice to the budgetary powers of the Parliament.

## **AMENDMENTS**

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

### **Draft legislative resolution**

Amendment 1  
Paragraph 1 a (new)

***1a. Points out that the appropriations indicated in the legislative proposal beyond 2006 are subject to the decision on the next multi-annual financial framework;***

Amendment 2  
Paragraph 1 b (new)

**1b. Calls on the Commission, once the next multi-annual framework is adopted, to present, if appropriate, a proposal to adjust the financial reference amount of the programme;**

*Justification*

*The financial reference amount cannot be finally established until the Financial Perspective has been adopted. Once it has been adopted, the Commission should submit a legislative proposal with a view to determining the reference amount in accordance with the ceiling set in the Financial Perspective*

**Proposal for a Regulation**

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 3  
Title

REGULATION OF THE COUNCIL  
establishing an Instrument for Stability

REGULATION OF **THE EUROPEAN  
PARLIAMENT AND** THE COUNCIL  
establishing an Instrument for Stability

*Justification*

*Following a demand from the European Parliament at the legislative trilogue of 4 April 2005, based on an opinion from its legal service, the Council has taken a decision on 4 May 2005 and agreed that the correct legal base should be co-decision.*

Amendment 4  
Citation 1

Having regard to the Treaty establishing the  
European Community, and in particular  
**Article 308 thereof,**

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

*Justification*

*See amendment 3.*

Amendment 5  
Citation 2

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<sup>1</sup> Not yet published in OJ.

***Having regard to the opinion of the European Parliament,***

***Acting in accordance with the procedure in Article 251 of the Treaty,***

*Justification*

*See amendment 3.*

Amendment 6  
Recital 4

**(4) *The European Council has committed the European Union*** to becoming an effective player in crisis management and the prevention of violent conflict. The EU Programme for the Prevention of Violent Conflicts underlines the “political commitment to pursue conflict prevention as one of the main objectives of the EU’s external relations”. Community financing instruments have a major contribution to make to the this goal and to the development of the Union as a global player.

**(4) *The European Union is committed*** to becoming an effective player in crisis management and the prevention of violent conflict. The EU Programme for the Prevention of Violent Conflicts underlines the “political commitment to pursue conflict prevention as one of the main objectives of the EU’s external relations”. Community financing instruments have a major contribution to make to the this goal and to the development of the Union as a global player.

*Justification*

*Formulation appropriate for a co-decision act.*

Amendment 7  
Recital 15

(15) Implementation of programmes of assistance in times of crisis and political instability require specific measures to ensure flexibility in decision-making and budget allocation, as well as enhanced measures to ensure coherence with bilateral aid and mechanisms for the pooling of donor funds, including the delegation of public authority tasks through indirect centralised management.

(15) Implementation of programmes of assistance in times of crisis and political instability require specific measures to ensure flexibility ***and transparency*** in decision-making and budget allocation, as well as enhanced measures to ensure coherence with bilateral aid and mechanisms for the pooling of donor funds, including the delegation of public authority tasks through indirect centralised management.

*Justification*

*Especially important since actions in this field may have different funding sources and be implemented in parallel with other instruments.*

Amendment 8  
Recital 21

(21) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. Strategy documents governing long-term assistance should be submitted to a management committee. A consultative committee should be consulted where particular flexibility is required in the design and implementation of the programme.

(21) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. Strategy documents governing long-term assistance should be submitted to a management committee. ***Due account shall be given to the evaluation expressed by the European Parliament in accordance with the procedure set out in Article 24a.*** A consultative committee should be consulted where particular flexibility is required in the design and implementation of the programme.

*Justification*

*It is imperative that Parliament is also involved over the strategy documents since the proposed regulation is of a general nature. In a co-decision instrument it is politically irrational for the "strategy" to be decided solely by the Council. Therefore, a procedure compatible with the existing legislative, budgetary and comitology provisions is deemed necessary. We should also ensure that there will be no rigid over-regulation since we should be able to react to changing needs in the international field.*

Amendment 9  
Article 1, subparagraph 1 a (new)

***Such measures shall aim to establish the necessary conditions for the implementation of the other external instruments as well as for consistency among the different actions of these instruments. The Commission shall ensure that overlaps are avoided and that the financing of actions is transparent between actions and instruments.***

*Justification*

*Whenever the policy-driven instruments cannot prevent the creation of grey-zones or of overlapping, the Stability Instrument is also designed to appropriately intervene.*

Amendment 10  
Article 4, paragraph 2

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 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.

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 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. ***The European Parliament and the Council shall be regularly informed on the exceptional assistance measures, including the financial amounts envisaged.***

*Justification*

*Relevant for the budgetary authority.*

Amendment 11  
Article 4, paragraph 4, point b

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.

b) the country, regional or thematic strategies adopted under the Regulations establishing the Development Cooperation and Economic Cooperation Instrument, the Integrated Pre-accession Instrument, and the European Neighbourhood and Partnership Instrument.

*Justification*

*Not all Regulations are Council Regulations.*

Amendment 12  
Article 5, paragraph 1

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

1. The Commission shall maintain a constant dialogue with ***the European Parliament and the Council*** on its planning of exceptional assistance measures under this Regulation. It

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.

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 European Parliament and the Council** forthwith of the nature, objectives and financial amounts of the measures adopted.

#### *Justification*

*The legislative and budgetary authority should be kept informed.*

#### Amendment 13

##### Article 5, paragraph 2, subparagraph 3

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**.

Within **18 months** 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 European Parliament and the Council**.

#### *Justification*

*The legislative and budgetary authority need to be informed on why certain actions are financed under a certain instrument. For reasons of sound financial and budgetary management, the transition from temporary measures (interim programmes) to the regular programmes should be facilitated.*

#### Amendment 14

##### Article 8, paragraph 1

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).

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).

***Due account shall be taken to the evaluation expressed in conformity with the procedure laid down in Article 24a.***

#### *Justification*

*It is imperative that Parliament also exerts its influence over the strategy documents since the proposed regulation is of a general nature. In a co-decision instrument, it would be a grave mistake for the "strategy" to be decided solely by the Council. Therefore, a procedure compatible with the existing legislative, budgetary and comitology provisions is deemed necessary. We should also ensure that there will be no rigid over-regulation, since we should be able to react to changing needs in the international field.*

#### Amendment 15

##### Article 16, paragraph 3

3. In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary country or region.

3. In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary country or region ***after verifying that they respect the basic principles of the Financial Regulation.***

#### *Justification*

*A clarification relating to the need for transparency, non-discrimination and the avoidance of conflicts of interest.*

#### Amendment 16

##### Article 24 a (new)

#### ***Article 24a***

***The Commission shall, no later than 30 September of the year n-2, present for each external policy instrument a multi-annual policy strategy paper that shall also contain a specific chapter on an indicative multi-annual financial framework. This paper will normally span three years. The European Parliament will, in the year n-1,***

*express its evaluation of each policy paper and its indicative financial framework after adopting its resolution on the Annual Policy Strategy (APS) for the year n. This procedure shall be without prejudice to the budgetary powers of the Parliament and will serve to ensure consistency in political priority-setting and in matching the above at budgetary level.*

*Before adopting the strategy papers, multi-annual programmes, and any revisions thereof, referred to in Article 7, the Commission shall submit the draft text to the European Parliament and the Council. Within three months of the submission of the draft text, each institution may either suggest amendments, if it considers that the draft text does not meet the objectives laid down by the legislative authority, or object to the adoption of that text and, possibly, ask the Commission to submit a proposal for a legislative act to be adopted in accordance with Article 251 of the Treaty.*

#### *Justification*

*It is imperative that Parliament also exerts its influence over the strategy documents since the proposed regulation is of a general nature. In a co-decision instrument, it would be a grave mistake for the "strategy" to be decided solely by the Council. Therefore, a procedure compatible with the existing legislative, budgetary and comitology provisions is deemed necessary. We should also ensure that there will be no rigid over-regulation, since we should be able to react to changing needs in the international field.*

*In principle the EP could insist that the legislative procedure of article 251 be maintained for the adoption of the strategy papers. But in order to provide some flexibility for the Commission a procedure is proposed where the strategy papers can be decided upon in comitology, provided that neither of the institutions object. This would mean that only in case that the draft texts by the Commission meet heavy opposition by the legislative authority, the legislative procedure would have to be followed.*

Amendment 17  
Article 25 a (new)

#### *Article 25a*

##### *Financial reference amount*

##### *1. The indicative financial framework for*



***the implementation of this instrument is set at EUR 4 455 million for a period of seven years beginning on 1 January 2007.***

***2. If the legal scope of this instrument is revised, the Commission shall present a proposal to adjust the financial reference amount accordingly.***

#### *Justification*

*The reference amount is consistent with EP's negotiating position (Böge report). It is the same as the Commission financial statement for this programme (in current prices). Furthermore, the reference amount for the financial framework cannot be set until such time that a decision has been reached on the Financial Perspective. Once a decision is reached, the Commission shall present, if necessary, a legislative proposal to set the reference amount with respect to the appropriate ceiling of the financial perspective (see amendments to the legislative resolution).*

## PROCEDURE

<b>Title</b>	Proposal for a regulation of the European Parliament and of the Council establishing an Instrument for Stability
<b>References</b>	COM(2004)0630 – C6-0251/2004 – 2004/0223(COD)
<b>Committee responsible</b>	AFET
<b>Opinion by</b> Date announced in plenary	BUDG 11.1.2005
<b>Enhanced cooperation – date announced in plenary</b>	No
<b>Drafts(wo)man</b> Date appointed	Antonis Samaras 31.1.2005
<b>Discussed in committee</b>	20.4.2005      14.9.2005      11.10.2005
<b>Date adopted</b>	11.10.2005
<b>Result of final vote</b>	+:            39 –: 0:
<b>Members present for the final vote</b>	Reimer Böge, Simon Busuttil, Paulo Casaca, Valdis Dombrovskis, Bárbara Dührkop Dührkop, James Elles, Hynek Fajmon, Szabolcs Fazakas, Salvador Garriga Polledo, Neena Gill, Dariusz Maciej Grabowski, Ingeborg Gräßle, Louis Grech, Nathalie Griesbeck, Catherine Guy-Quint, Ville Itälä, Anne E. Jensen, Wiesław Stefan Kuc, Zbigniew Krzysztof Kuźmiuk, Alain Lamassoure, Janusz Lewandowski, Vladimír Maňka, Mario Mauro, Jan Mulder, Gérard Onesta, Giovanni Pittella, Antonis Samaras, Anders Samuelsen, Esko Seppänen, Nina Škottová, László Surján, Helga Trüpel, Yannick Vaugrenard, Kyösti Tapio Virrankoski, Ralf Walter
<b>Substitute(s) present for the final vote</b>	Lidia Joanna Geringer de Oedenberg, Hans-Peter Martin, Jean-Claude Martinez, Peter Šťastný
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Comments (data available in one language only)</b>	

## PROCEDURE

<b>Title</b>	The proposal for a regulation of the European Parliament and of the Council establishing an Instrument for Stability			
<b>References</b>	COM(2004)0630 – C6–0251/2004 – 2004/0223(COD)			
<b>Date submitted to Parliament</b>	17.12.2004 - 20.5.2005			
<b>Committee responsible</b>	AFET			
Date authorisation announced in plenary	11.1.2005			
<b>Committee(s) asked for opinion(s)</b>	DEVE	INTA	BUDG	ITRE
Date announced in plenary	11.1.2005	11.1.2005	11.1.2005	11.1.2005
	LIBE	JURI		
	11.1.2005	11.1.2005		
<b>Not delivering opinion(s)</b>	ITRE	LIBE		
Date of decision	27.1.2005	21.2.2005		
<b>Enhanced cooperation</b>	Yes			
Date announced in plenary	13.1.2005			
<b>Motion(s) for resolution(s) included in report</b>	–			
<b>Rapporteur(s)</b>	Angelika Beer			
Date appointed	2.12.2004			
<b>Discussed in committee</b>	11.10.2005	22.11.2005	25.1.2006	
<b>Date adopted</b>	25.4.2006			
<b>Result of final vote</b>	for:	46		
	against:	0		
	abstentions:	3		
<b>Members present for the final vote</b>	Angelika Beer, Panagiotis Beglitis, André Brie, Elmar Brok, Simon Coveney, Véronique De Keyser, Giorgos Dimitrakopoulos, Camiel Eurlings, Maciej Marian Giertych, Ana Maria Gomes, Alfred Gomolka, Richard Howitt, Toomas Hendrik Ilves, Ioannis Kasoulides, Joost Lagendijk, Vytautas Landsbergis, Cecilia Malmström, Francisco José Millán Mon, Pasqualina Napoletano, Annemie Neyts-Uyttebroeck, Baroness Nicholson of Winterbourne, Justas Vincas Paleckis, Alojz Peterle, Tobias Pflüger, João de Deus Pinheiro, Mirosław Mariusz Piotrowski, Hubert Pirker, Paweł Bartłomiej Piskorski, Michel Rocard, Raúl Romeva i Rueda, Libor Rouček, György Schöpflin, Gitte Seeberg, István Szent-Iványi, Konrad Szymański, Charles Tannock, Inese Vaidere, Ari Vatanen, Karl von Wogau, Luis Yañez-Barnuevo García			
<b>Substitutes present for the final vote</b>	Laima Liucija Andrikiienė, Árpád Duka-Zólyomi, Glyn Ford, Milan Horáček, Tunne Kelam, Jaromír Kohlíček, Janusz Onyszkiewicz, Rihards Pīks, Aloyzas Sakalas			
<b>Substitutes under Rule 178(2) present for the final vote</b>				
<b>Date tabled</b>	2.5.2006			
<b>Comments (available in one language only)</b>				