Working in Transition Situations

A handbook of useful EU legal and institutional regulations

**Draft for Training “Acting in Transition”**

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Acronyms

AAP Annual Action Programme

ACP African, Caribbean and Pacific Countries (currently 79)

BLs Budget lines

CPA Cotonou Partnership Agreement

CPA(S) Comprehensive Peace Agreement (Sudan)

CSP Country Strategy Paper

DCI Instrument for Development Cooperation

DRR Disaster Risk Reduction

EAMR External Assistance Management Report

EC European Commission

ECHO European Commission Humanitarian Office

EDF European Development Fund

EIDHR European Instrument for Democracy and Human Rights

ENPI Instrument for the European Neighbourhood Partnership

Env. B Envelope B of the NIP

EU European Union

FR Financial Regulations

FS Food Security

FSTP Food Security Thematic Programme

HA Instrument for Humanitarian Aid

HIV/AIDS Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome

IfS Instrument for Stability

(I)NGOs (International) Non-Government Organisations

IOs International Organisations

iQSG Quality Support Group

IPA Instrument for Pre-accession Assistance

IR Implementing Rules

LGA Local Government Authority

LRRD Linking relief, rehabilitation and development

MDG Millennium Development Goals

MDTF Multi Donor Trust Fund

MTR Mid Term Review

NAO National Authorising Officer

NIP National Indicative Programme

NSA Non-State Actors

PCNA Post Conflict Needs Assessments

PDNA Post Disaster Needs Assessments

PMU Programme Management Unit

PRAG Practical Guide

RIP Regional Indicative Programme

RSP Regional Strategy Paper

TEFU Treaty on the Functioning of the European Union

TEU Treaty on European Union

TS Technical Sheets

UN United Nations

WB World Bank

Glossary

**Fragile State:** fragility refers to weak or failing structures and to situations where the social contract is broken due to the State's incapacity or unwillingness to deal with its basic functions, meet its obligations and responsibilities regarding the rule of law, protection of human rights and fundamental freedoms, security and safety of its population, poverty reduction, service delivery, the transparent and equitable management of resources and access to power.

**Situations of fragility:** including at State level, differ and present specific features, which require adapted policy responses that highlight the importance of democratic governance,rule of law, respect of human rights and fundamental freedoms, and the eradication of poverty, as well as of climate change and migration issues.

**Disaster:** A disaster is a sudden, calamitous event that causes serious disruption of the functioning of a community or a society causing widespread human, material, economic and/or environmental losses which exceed the ability of the affected community or society to cope using its own level of resources. (Source: UN/ISDR 2004); also used by ECHO

**Transition Situation:** The EC defines ‘Transition’ as ***‘…****the evolution between the provision of emergency relief aid and the implementation of development assistance...****’***,[[1]](#footnote-1) thus a ‘transition situation’ is where a country should ‘transit’ from a traumatic state to a state of recovery orientated towards a state of resilience.

**Crisis situation** a situation posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:

* + the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;
  + the security of the European Union, peace-keeping and international security, promotion of international cooperation or developmentand strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms

(Article 168 (2) Implementing Rules)

**ad hoc decision** In principle, all foreseen (annual) actions for the implementation of the relevant multi-annual programming documents should form part of the AAP. Only exceptionally the implementation of these programming documents would be carried out on the basis of *ad hoc* decisions.

**Special measures** In the event of unforeseen and duly justified needs or exceptional circumstances related to natural disasters, civil strife or crises, the Commission may adopt Special Measures not covered in the Strategy Papers or multiannual indicative programmes (e.g. articles 23 DCI, 13 ENPI and 8 of the Regulation on the implementation of the 10th EDF). Special measures may also be used to fund measures to ease the transition from emergency aid to long-term development operations, including those to better prepare people to deal with recurring crises.

These Measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures and the total amount of financing. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and the indicative timetable for their implementation. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures

**International Organisation:** The definition of an international organisation is provided for in article 43(1) of the Implementing Rules of the EC Financial Regulation (IR): *“The international organisations referred to in Article 53d of the Financial Regulation shall be: (a) international public-sector organisations set up by intergovernmental agreements, and specialised agencies set up by such organisations; (b) the International Committee of the Red Cross (ICRC); (c) the International Federation of National Red Cross and Red Crescent Societies. For the purpose of Article 53d of the Financial Regulation, the European Investment Bank and the European Investment Fund shall be assimilated to international organisations.”*

**Part I: Introduction to the Handbook**

# 1.1 Introduction

In 1996, recognising the needs of fragile countries and the complexity of the developmental response required, the EC initiated a policy to rationalise its efforts. The resulting process is referred to as ***‘...linking relief, rehabilitation and development...’*** (LRRD)[[2]](#footnote-2)and it relates to the necessary coordination, coherence, complementarity and synergy between the humanitarian assistance and long-term development. This strategy is still evolving. Since its adoption, the Commission, the Council and the Parliament have continuously reaffirmed the utmost significance of linking the provision of relief and rehabilitation with longer-term sustainable development. In 2001 the Commission adopted a second Communication on the state of play in LRRD[[3]](#footnote-3). In this Communication the Commission recognised that, despite some improvements, much remains to be done in ensuring this link. The Communication stressed, among others, ‘the importance to review its own instruments and procedures with a view to reduce time delays, mobilise adequate resources in timely fashion and ensure the involvement of appropriate partners.’

Over the last fifteen years, the Commission has adopted innovative and flexible methods to counter the difficult situations of fragility with multifaceted tools and strategies The changes have been affected in many different pieces of legislation, either newly promulgated or as amendments to existing treaties, instruments, regulations and guides (e.g. the Instrument of Stability, the Financial Instrument for Development Cooperation (DCI), which contains a specific LRRD component in the Food Security Thematic Programme). As a result of this rather piecemeal approach, all too often, staff in the Delegations have struggled to find the appropriate legislation, policy reference or regulation to assist them in the design and implementation of interventions enabling them to meet the crisis in an effective and timely manner. Thus, the purpose of this Handbook is to assist the services of the European Commission with relatively quick and easy access to core aspects of the existing EC regulatory framework that has a direct impact on EC interventions in situations of fragility and transition to a state of resilience.

Although the Handbook addresses and makes reference to situations of fragility and/or situations of crisis, it does not pretend to cover the whole spectrum of cases where the state is unwilling or unable to perform and deliver services. In particular, the compendium does not cover:

* links with Common Security Defence Policy (CSDP) missions
* planning instruments developed by / or jointly with other organisations to address transition situations (e.g.: PCNA/PDNA)
* conflict sensitivity, conflict prevention mainstreaming, or peace-building in external aid
* links with EU mediation and preventive diplomacy efforts
* links with election observation and electoral assistance.

The regulatory framework (Figure 1) consists of the entire legal, political, financial and procedural system within which the EC services must operate. However, interventions in man-made, natural or structural crisis situations and situations of transition to stable development and reduced vulnerability to shocks are only referenced in a limited number of EC guidelines and instructions. This Handbook is a toolbox for the use of staff in Delegations, ECHO offices and HQ, concerned with fragile countries and those subject to natural and manmade disasters, who have at least a basic knowledge of the financial and administrative procedures and policies. It covers both the legal and political aspects – the EU treaties, international agreements and thematic and sector policies that set the parameters of EU assistance, as well as the operational aspects – the financing instruments related to the implementing procedures. It places particular emphasis on Project cycle management (country programming, identification, formulation and implementation of EC interventions), highlighting the legislative and policy advantages and shortcuts applicable to such countries and crisis situations in general, thus ensuring a more rapid and coherent response.

Figure 1 The Regulatory Framework of Treaties, Policies and Instruments

**- TREATIES -**

Policies

Cotonou

ACP-EC Partnership Agreement

EU Treaty

Treaty on European Union & Treaty on the Functioning of the European Union

* EU Consensus on Humanitarian Assistance
* EU Consensus on Development Cooperation

Overarching

**- FINANCE -**

FR & IR

EDF

FR & IR

Budget

R

R

**-** **INSTRUMENTS -**

Thematic

* EU Response to Situations of Fragility
* EU Disaster Response Capacity
* EU Strategy for Disaster Risk Reduction
* EU Food Security Policies

EIDHR

ENPI

IfS

DCI

HA

**- PROGRAMMES -**

All ACP

RIP

NIP

Specific Intervention

Specific Intervention

Geographic Programme

Thematic Programme

Geographic Programme

EU Action Plans

NSA & LGA

FSTP

**KEY**

ACP African, Caribbean and Pacific IfS Instrument for Stability

DCI Development Cooperation Instrument IR Implementing Rules

EDF European Development Fund LGA Local Government Authority

EIDHR European Instrument for democracy and Human Rights

ENPI European Neighbourhood Partnership Instrument NIP National Indicative Programme

FR Financial Regulations NSA non-State Actors

FSTP Food Security Thematic Programme RIP Regional Indicative Programme

HA Instrument for Humanitarian Aid R Reserve

## 1.1.1 Structure of the Handbook

The Handbook is structured according to the main regulatory aspects guiding EC external assistance, namely:

* **Part I:** The introduction
* **Part II:** The Political Commitments: Treaties, Policies and Financing Instruments, in situations of fragility and transition to a state of resilience
  + The EU Treaties and international agreements
  + The thematic & sector policy frameworks
  + The regulation framework for the Financial Instruments
* **Part III:** The Operational Cycle
  + The implementing procedures concerning the intervention cycle (i.e. programming of strategy papers, identification, formulation, financing, and implementation).
* **Appendices**
  + Each Section in Parts I & II contains hyperlinks that provide a user-friendly route to the background documents and the relevant parts of the existing EC regulatory framework. Further detailed information on specific legislative texts is provided in an appendix. The extracts refer to the specific emergency and flexible procedures applicable to crisis situations.[[4]](#footnote-4) They highlight specific references to existing rules and commitments that can be useful in situations of fragility and in assisting transitional efforts, if properly exercised by the involved EC services. The reader should note that the Extracts in both Part I and II are direct quotes from the text of the pertinent literature and are written in *Italics* rather than enclosed by quotation marks – any additions or explanatory notes are in normal text.
* **CD:** To ensure access to the current legislation, the relevant documents are stored in a CD enclosed in the back of the Handbook. It is planned that the Handbook itself will be a live document with the links to relevant legislation regularly updated as it is reviewed, amended, and new Acts promulgated.

This top-down structure enables the reader to get a comprehensive overview of the regulatory environment in which s/he must operate. The tool is meant to provide a first entry point for EC officials, assisting the user in applying the appropriate legislation and/or instrument at each stage of the intervention cycle. It should facilitate more effective interventions, both in the preparatory stage and in their operation by helping staff identify and use the existing legislation to justify a proposal or action, thus widening the space and scope for decision-making.

# 1.2 In what situations is this Handbook useful?

Out of the world’s six billion people, over one quarter - 1.75 billion - live in fragile states, where a ‘fragile state’**[[5]](#footnote-5)** is typically defined as a low income country, weakened by limited state capacity or weak state legitimacy, leaving citizens vulnerable to a whole range of shocks. It is where vulnerable people live their lives in constant fear of natural disaster, conflict or poor governance (often in combination) and where the impact of these factors exacerbates other conditions, such as the negative effects of climate change and globalism, limited natural resources and lack of markets that further erode already stressed coping mechanisms.

It is not only the fragile state itself that is affected. Though fragility undermines progress in the affected country it also has regional and global impacts: migration of refugees; spread of diseases (e.g. HIV/AIDS, Tuberculosis); arms trafficking and smuggling; breakdown of regional trade; and, breeding grounds for criminal and terrorist networks. There are, therefore, not only humanitarian imperatives to assist these states, but also geo-political concerns.

In the context of development aid and humanitarian assistance and especially in the greater scheme of the ‘Millennium Development Goals’(MDG), donors in the developed world are attempting to assist such countries to emerge from this state of fragility to a state of resilience through sustainable development. The number of such serious transitional situations prevalent in the world today, ranging from Pakistan, Haiti, Sri Lanka to Zimbabwe and Sudan, demonstrates how important it is to find coherent systems to negotiate a successful route. Yet, the great diversity of cause and effect means that no two situations are the same. This complexity is only matched by the growing number of agencies/ departments/ institutions, both within the Commission and amongst all other humanitarian and development actors, who are engaged in attempting to resolve the issues. Such complexity demands ever increasing levels of coordination and inter-agency reliance on timely and effective completion of task allocation. This in itself requires a clear understanding of each party’s capacities, capabilities and political will.

In many post-crisis situations, whether caused by natural disaster, conflict, bad governance or social or economic upheaval, the EC has traditionally been faced with an ambivalent choice of response mechanisms. On the one hand, emergency humanitarian aid will deliver services rapidly but is ill suited, both in mandate and budgetary instruments, to engage in sustained capacity building. Development aid, on the other hand, considers that the use of state capacity is crucial for a sustainable solution and is therefore bound to work with government bodies. Yet, it is governed by the speed at which these institutions, often weak and lacking in absorption capacity, are able to work. To further complicate the situation, there are other financial instruments than just humanitarian relief and development aid that have an impact on such situations, as there are other different actors, and somehow they all have to be involved at the same time. As with most Agencies, the EU has devoted, and is continuing to devote, a considerable amount of work, instruments, strategies and policies to meet its commitment to address both situations of fragility and the sometimes tortuous path to an improved state. This Handbook provides a summary of such efforts and should be used as a guide along the path.

## 1.2.1 ‘Transition’ Situations

**A period of transition could be defined as a gradual shift** from a situation where the imperative is for urgent lifesaving, where there are overarching ‘protection’ needs using international partners, to a situation of sustainable development where the Government and local partners take the main responsibility. In the 1996 and 2001 Communications of the European Commission[[6]](#footnote-6) ‘Transition’ was explained as ***‘…the evolution between the provision of emergency relief aid and the implementation of development assistance...’***, thus a ‘transition situation’ is where a country should "transit" from a traumatic state to a state of recovery orientated toward a state of "resilience".

This then, is the definition of Transition adopted in the context of this Handbook, the movement of a country from an unstable, traumatic state requiring emergency humanitarian aid to a state of recovery that demonstrates resilience, in which regular, bilateral developmental processes may be conducted.

Some countries are trapped in a vicious cycle of violent conflict and poverty or suffer from a natural resource deficit (e.g. water and pasture in Darfur) or even the opposite an excess (such as Angola - diamonds, oil) when it can become a curse – both deficits and excesses can lead to conflict; others face a legacy of poor [governance](http://en.wikipedia.org/wiki/Governance) (Zimbabwe); many emerging from crisis cannot or will not deliver even the most basic services to their citizens such as the Democratic Republic of Congo or Darfur, Sudan. Thus, in terms of dynamics, fragile states & their state of transition can be divided into different types; though obviously, many countries will fit into different categories at the same time or will evolve from one category to another over time. Examples of Countries affected by "transition situations" are given in Table 1 below.

Table 1: Transition Situations

|  |  |  |  |
| --- | --- | --- | --- |
| **Types of Fragility** | | **Some examples** | **Key Short-Term Issues** |
| **Deteriorating** [**governance**](http://en.wikipedia.org/wiki/Governance) **environments** with institutional weakness, where the Government fails to implement its public service function (security, political, social and/or economical):   * To protect its people and their property and/or their land * To deliver basic social and infrastructure services such as water or health or agricultural support, public goods such as roads etc. * To protect the more vulnerable groups and livelihoods in the society * To provide sound management of public finances and public resources.   The worst case in this type would be the failed or collapsed state, such as Somalia. | | * Zimbabwe 2002 * Southern Sudan/ Darfur * Chad * Equatorial Guinea * DRC * North Korea * Afghanistan * Central African Rep. * Somalia | 1. Human rights issues, 2. Displacement, 3. Urgent primary needs, food shortages 4. Erosion of coping mechanisms 5. Loss of livelihoods, 6. governance, 7. protection |
| **Situations of acute crisis or conflict,** which can be one time or recurrent; based on man- made conflict or rapid onset natural disaster (here the transition will start from the immediate post crisis phase into early recovery) | | * Pakistan earthquake & floods * Haiti earthquake 2010 * Lebanon/Israel conflict 2007 * Tsunami South East Asia 2005 * Niger food crisis * Afghanistan * Central African Rep. * Sudan – Darfur * DRC | 1. Protection 2. Urgent primary humanitarian needs – health, medical, shelter, water & sanitation, 3. Displacement, 4. Livelihoods, 5. Erosion of coping mechanisms |
| **Situations of post conflict or post crisis** with late recovery, reconstruction and sustainable development with gradual improvement of the humanitarian situation and the governmental public service provision. | | * Liberia 2005 – 10 * Sierra Leone 2006 - 10 * Rwanda * Angola * Tajikistan 2008 * Sri Lanka * E. Timor * S. Sudan * Central America (Hurricane Mitch) * Guatemala (1990) * Cambodia 1990 | 1. Return/Repatriation refugees & IDPs, provision of full services to returnees plus humanitarian relief 2. Careful targeting of populations in need, 3. Protection, land tenure 4. Restoration of safety and security, (UXO, weapons collections, etc.) 5. Recovering livelihoods, 6. Governance, reconciliation/ peace building – sustainable measures, |
| **Protracted/chronic crises** (with or without acute spikes, so including the slow onset natural disasters), where progressively the country or region goes from a state of fragility to build up resilience to shocks. | Natural disasters | * Burkina Faso, * Samoa, * Indonesia, * Pakistan, * Afghanistan * Drought in the Horn of Africa | 1. Shelter, 2. Urgent humanitarian needs – Medical, epidemiological surveillance, health, water and sanitation, 3. Disaster Preparedness, DRR, 4. Loss of livelihoods, 5. ‘Protection’ – land tenure. |
| Food crisis and malnutrition | * Kenya, * Bangladesh * Zimbabwe 2010 * East Timor * DRC | 1. Food aid, security, production, 2. Malnutrition as a chronic issue, to be integrated into government priorities + WASH |
| **Multi-dimensional** – (e.g. Pandemic HIV/AIDS/Malaria/ TB + Drought, or Complex Emergency + Natural Disasters & other permutations | | Zimbabwe, Pakistan  Congo, Afghanistan  N. Korea | All of the above, plus total erosion of coping mechanisms. |

This is not a comprehensive list. Some countries suffer from more than one of the problems defined above and, with countries such as Kenya, parts of a country may be undergoing different rates and types of development due to localised crises/conflicts. This also applies on a regional basis, and often fragility can be caused by being surrounded by unstable, warring neighbours, or by being located in a region, such as the Horn of Africa, where drought is prevalent.

In 2010 alone, two countries that were already in a process of ‘Transition’, Haiti and Pakistan, have, on top of all the other misfortunes that they have suffered been further devastated by huge natural disasters, which:

1) increased their fragility; and

2) further reduced their capacity to recover and severely set back progress to a better state.

In other instances, the usual strategy of development agencies in supporting government or local authority, can also be problematic; especially where the government (Darfur – Sudan, or Zimbabwe) may be the root cause of social divisions, or one of the belligerents in a conflict.

Most commonly, the trauma affecting the state is conflict, but trauma takes many forms that can severely affect a country. Indeed, one of the key elements of ‘Transition’ and, subsequently, linking relief rehabilitation and development (LRRD) as a possible route to negotiate transition, is that there is no uniform example of countries in a ‘Transition’ phase. Neither is there a standard model of a ‘fragile’ state nor is there any one defining strategy to address a state of transition or provide benchmarks to indicate that a country has reached such and such a place in transition. Activities, which in the past were seen to be either humanitarian or development, are usually interlinked and possibly inseparable. If a coherent, development strategy is to be adopted, it must always be remembered that a ‘transition’ period is not uniform and that ‘Transition’ covers a broad spectrum of activities, supported by a large number of financial instruments, which are not necessarily sequential or compartmentalised.

# 1.3 Two main approaches

The capacity and ability of the international aid and development communities to respond to transition situations is ultimately defined, controlled or constrained by (an increasing number of) policies, processes, perceptions, strategies, and most importantly the instruments, which have in the end been shaped by all of the former procedures of the institutions that deliver assistance. Historically, these have comprised mainly of two forms of approaches/instruments:

1. emergency ***humanitarian aid***, which in the case of the European Commission, attempts to be an apolitical, emergency-orientated and short-term form of relief primarily to save lives – not endeavouring or pretending, necessarily, to provide sustainable solutions although with an increasing awareness of the principles of ‘do no harm’; and
2. ***development aid*** which by necessity is orientated to work at achieving sustainable growth and stability through working with government/state using larger, longer-term more predictable budgets.

Development aid is distinguished from humanitarian aid by focusing on alleviating poverty in the long term, rather than easing suffering in the short term – which also explains another of the big differences between humanitarian aid and development aid – humanitarian aid focuses much more on details and immediate needs where development aid looks ahead at the ‘big picture’.

## 1.3.1 Continuum or Contiguum?

The desired outcome of all aid programmes is to assist the beneficiary state to progress from a state of fragility to a state of resilience in which it can better weather sudden shocks and maintain a stable developmental programme. Figure 2[[7]](#footnote-7) represents such a progression, illustrating the process and explaining some of the tools that may be used.

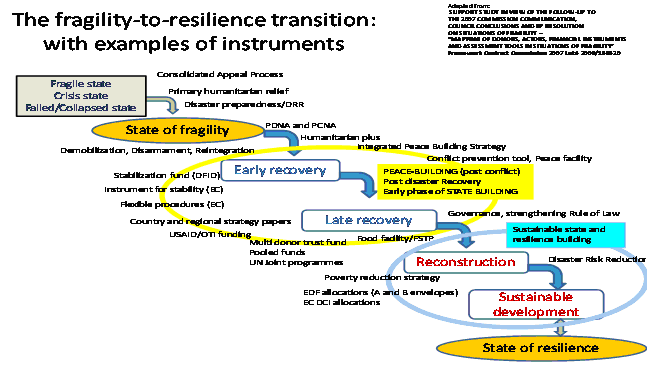


Figure 2: The fragility to Resilience transition: with examples of instruments

However, it is rare that fragile situations are resolved in such a straightforward manner. More often, a number of scenarios are in operation in any one country, where some regions are stable and others subject to destabilising influences of conflict or natural disaster. To take the example of Sudan and the resolution of the twenty year civil war between the north and the south, Table 2 represents the changing response requirements of the EC’s aid. Though similar to the continuum in the different stages, it recognises that the separate activities may be happening at the same time and the programme needs to coordinate the different instruments to ensure compatibility and smooth transition. This aspect is better demonstrated in Figure 3 where the different activities are shown in a chronological yet intermeshed manner. It is in the “grey Transition Zone” that the greatest care must be taken to use the instruments and legislation available to ensure rapid and flexible assistance is provided where and when needed, without compromising future developmental procedures.

Table 2: LRRD Approach in a Conflict/Post-conflict environment (Sudan 2007)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Chronology** | **Phase Classification** | **Mode of Response** | **Intervention Level** | **Implementing Partners** | **Possible funding** |
| **Prior to peace agreement: Humanitarian -Independent of Government if necessary** | Emergency/  Crisis | Humanitarian **Projects** for saving life | Individuals & House holds | (I)NGOs  UN / IOs | ECHO, FS/FA Budget  EDF Env.B |
| Chronic Crisis | Hum. **Projects** with development objectives for sustainable Livelihoods | House Holds & Community | (I)NGOs/NSA  UN / IOs | *(ECHO)\**  *BLs (various)*  *EDF & Env.B* |
| **Preparatory Cross-Party Dialogue** | Preparation | Feasibility **Studies** **Technical Assistance**  Capacity Building **Programme** | Government & Rebels | UN  Consultants  PMU | FSTP, EIDHR  IfS, EDF |
| **After peace agreement:**  **Full Co-operation with Government** | Early Recovery | Development **Programmes** based on local needs | Community & Local Government | (I)NGOs/NSA  UN / IOs  WB (MDTF)  LGAs | EDF, IfS, DCI |
| Capacity Building **Programme** | Public Administration |
| Recovery, Reconstruction and Development | **Sector Programmes** based on National Objectives  **Budget Support** | National and State Governments | Ministries,  Commercial Companies,  Decentralised Authorities | EDF, DCI, IfS  Budget Lines (various) |

**\* ECHO funding is intended for emergency, not chronic, situations yet is often used for the latter purpose as other instruments cannot respond in time**

Figure 3: The LRRD Contiguum, an example from Sudan (2007)



**Table 2 & Fig 3. Source: LRRD in a Transitional State. Paul Symonds & Jacques Prade Continental Seminar on Food Security – Africa. 12-16 March 2007. Nairobi, Kenya**

**Part II: Provisions of the Treaties, Policies and Financing Instruments that address situations of fragility/transition**

# 2.1 The EU Treaties and international agreements

## 2.1.1 The Lisbon Treaty

The overarching legal and political framework for EU interventions in situations of fragility is provided by the Lisbon Treaty. Objectives related to post-crisis interventions, development and humanitarian policy are now mainstreamed into EU foreign policy objectives. The Treaty reinforces the obligation for a stronger ‘policy mix’, for addressing situations of Fragility. The Lisbon Treaty resulted in two consolidated treaties – The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TEFU).

Highlights:

* Humanitarian Aid has been given a new legal basis that stresses the specificity of the policy and the application of the principles of international humanitarian law: impartiality, neutrality and non-discrimination.
* One of eight EU foreign policy objectives laid down in the Lisbon Treaty is to assist populations, countries and regions confronting natural or man-made disasters;
* The Treaty stipulates that the Union shall take account of the objectives of development cooperation in all EU policies that are likely to affect developing countries.
* It likewise stipulates that individual policies, such as development policy or humanitarian assistance, be conducted within the framework of the principles and objectives of the Union’s external action.

**ACTs**

[Consolidated versions of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) (OJ C115, 9.5.2008)](http://www.consilium.europa.eu/uedocs/cmsUpload/st06655-re01.en08.pdf)

Extracts related to EC interventions in situations of fragility and transition to a state of resilience

***TEU, Article 21 (paragraph 2) on the objectives of the EU’s external action***

*The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:*

1. *Preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final* [*Act*](http://www.delvie.ec.europa.eu/en/eu_osce/overview.htm) *and with the aims of the Charter of Paris, including those relating to external borders;*
2. *Foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;*
3. *assist populations, countries and regions confronting natural or man-made disasters;*

***TEU, Article 21 (paragraph 3) on consistency in the EU’s external action***

*The Union shall ensure consistency between the different areas of its external action and between these and its other policies.*

***TFEU, Article 208 on the objectives of development Cooperation***

*Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union’s external action.*

*“Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.*

**TFEU, Article 214 on the objectives of humanitarian aid**

*The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations.*

*Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.*

## 2.1.2 The ACP-EU Cotonou Agreement

The ACP-EU Cotonou Partnership Agreement (CPA) is an international agreement that provides an integrated, comprehensive, legal and political framework for EC interventions in 79 African, Caribbean and Pacific (ACP) countries. The CPA for

The Agreement, especially Annex IV, directs the programming and implementation of a large part of the resources used to finance EC interventions in fragile situations in the ACP countries. It includes specific measures for use in structural, violent and/or man-made/natural (post) crises/emergencies and provides a set of procedures and rules that ensures flexibility in EC programming and implementation in times of crisis or general fragility.

**Highlights: \***

The 2010 revision of the ACP-EU Cotonou Agreement reinforces the various possibilities for interventions in situations of fragility and transition. Some of the important aspects are:

* Reinforced language which brings peace, security and development together and enables more integrated and comprehensive EC interventions in situations of man-made and violent crisis situations. There is now an explicit commitment to address situations of fragility by encompassing all available political, security and development tools and instruments including the use of political dialogue and mobilisation of political will (the reference to ‘political will’ is new in this context).
* The definition of a crisis in [Art. 72](#article_72), provides ample scope for flexibility by outlining circumstances where post-emergency aid could be allocated. This includes long-term structural instability, threats to individuals, ‘extraordinary circumstances having comparable effects such as climate change, access to energy, extreme poverty’.
* While the principle of ‘independence’ in EC humanitarian aid has been lost within the Lisbon Treaty, the CPA states that independence is one of the key principles for humanitarian, emergency and post-emergency assistance.
* The revised Cotonou introduces substantial reinforcement on language related to crisis-prevention, early warning and disaster preparedness, and disaster risk reduction
* The definition given to ‘post emergency action’ emphasises rehabilitation, LRRD and funding from the overall development funding pool. Emphasis is given to socio-economic reintegration, removing causes of the crisis and strengthening institutions and ownership of local and national actors.
* The EC (and ACP) has the obligation to undertake speedy action based on procedures permitting rapidity, flexibility and effectiveness in the implementation of humanitarian, emergency and post-emergency aid
* The EC is required to allocate funds for unforeseen needs and ‘humanitarian, emergency and post-emergency assistance’ within national, regional and continental envelopes.
* Very importantly, the CPA provides certain possibilities for providing EDF funding and implementing projects in cases of Art.96 [[8]](#footnote-8)or other exceptional circumstances which otherwise prevent an ACP country’s access to ‘normal’ programmable resources.
* The EC has the possibility of taking over responsibilities for programming and implementation of EDF/EC resources allocated to an ACP State in situations of crisis or post-crisis (including chronic instability). Furthermore, the CPA allows the EC to use the resources for basically everything needed
* *Ad hoc* reviews of the programming can be required by both the EC and the partner country (or regional organisation). Moreover, and more importantly, the revised CPA now explicitly allows for a change of focal/non-focal sectors following such *ad hoc* reviews.

\* for full references and hyperlinks to the relevant documents see Appendix 1

# 2.2 Overarching policies

The overarching policy framework that is of most relevance to EU interventions in situations of transition or fragility includes:

## 2.2.1 EU Consensus on Humanitarian Assistance

The jointly approved declaration offers substantial guidance on humanitarian interventions in situations of transition/fragility. It highlights the EC’s comparative advantages in delivering humanitarian assistance both at the Community and individual EU member states levels and refers explicitly to the linking of relief, rehabilitation and development. The ’Consensus’ contains several articles that mention the importance of effective, speedy interventions in situations of transition, including the necessity to ensure coordination, complementarity and coherence across the various EC and EU interventions.

**Highlights\***

* EU humanitarian aid is delivered in situations where other instruments related to crisis management, civil protection and consular assistance may also come into play. Hence, the EU is committed to ensure coherence and complementarity in its response to crises, making the most effective use of the various instruments mobilised.
* EU humanitarian aid, should be closely linked to development cooperation as expressed in ‘the European Consensus on Development’
* Achieving better linkage between Relief, Rehabilitation and Development (LRRD) requires humanitarian and development actors to coordinate from the earliest phases of a crisis response and to act in parallel with a view to ensuring a smooth transition. It necessitates mutual awareness of the different modalities, instruments and [approaches on the part of all aid actors, and flexible and innovative transition strategies.](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

\* for full references and hyperlinks to the relevant documents see Appendix 2

## 2.2.2 The EU Consensus on Development Cooperation

The Joint Declaration on EU Development Policy sets out the EU policy framework and the objectives of development cooperation in both the EU member states (Part I) and, more specifically, the European Community (Part II).

* *The first Part of the European consensus on development sets out common objectives and principles for development cooperation. It reaffirms EU commitment to poverty eradication, ownership, partnership, delivering more and better aid and promoting policy coherence for development. It will guide Community and Member State development cooperation activities in all developing countries in a spirit of complementarity.*
* *The second part of the European Consensus on Development sets out the renewed European Community Development Policy, which implements the European vision on development set out in the first part for the resources entrusted to the Community, in accordance with the Treaty. It clarifies the Community's role and added value and how the objectives, principles, values, policy coherence for development and commitments defined in this common vision will be made operational at Community level. It identifies priorities which will be reflected in effective and coherent development cooperation programmes at the level of countries and regions. It will guide the planning and implementation of the development assistance component of all Community instruments and cooperation strategies with third countries. It shall be taken into account in other Community policies that affect developing countries, to ensure policy coherence for development.*

The declaration is comparable to the other EU policy frameworks, in that it establishes an enabling policy framework, which contains political commitments and further mandates the EC to establish specific sets of structures, procedures and modalities that allow effective response through EU ‘development’ interventions. It offers substantial guidance for such interventions in situations of transition/fragility; including the linking of relief, rehabilitation and development and several other commitments (see paragraph 121) to ‘adjust’ the general ‘system’ so as increase speed and flexibility. That said, the main focus is on coordination, complementarity and coherence with other internal and external EU policies/measures.

**Highlights\***

* In transition situations, the EU will promote linkages between emergency aid, rehabilitation and long-term development. In a post-crisis situation, development will be guided by integrated transition strategies, aiming at rebuilding institutional capacities, essential infrastructure and social services, increasing food security and providing sustainable solutions for refugees, displaced persons and the general security of citizens
* The Community will make progress in defining a set of guidelines for intervention in countries in crisis or as they emerge from a crisis, by ensuring that it adjusts both its procedures for allocation of resources and its modalities of intervention, with the concern of being able to respond rapidly and flexibly, with a varied range of interventions

\* for full references and hyperlinks to the relevant documents see Appendix 3.

# 2.3 Thematic and sectorial policies

Several thematic and sectorial policies further elaborate the approaches and priorities of the European Commission. Whenever relevant to ’Transition’ situations, these policies have been included in this part of the Handbook to provide further guidance, assistance and new perspectives. Brief introductions to the various polices are given below with a link to the appropriate appendix that contains full references and hyperlinks to the relevant documents.

## 2.3.1 EU Response to Situations of Fragility

The 2007 EC Communication “Towards an EU response to situations of fragility” provides a recent and dedicated policy framework for EC interventions in situations of transition. Together with the related EU Council conclusions and the Communication on Security and Development, it provides a policy framework within which, most EC interventions in situations of Fragility should be identified, formulated and implemented.[[9]](#footnote-9)

The Council conclusions, mentioned above, are the EU member states’ reply to the proposals outlined in the EC communication on Fragility. They give political approval of the main aspects of the EC policy and underline the importance of an integrated whole-of-EU approach to situations of transition. Furthermore, the conclusions also apply to bilateral interventions by EU member states in these situations.

The Council conclusions on Security and Development provide further input and decision-making space for EC services intervening in situations of transition from fragility to stability. They pay particular attention to the link between security and development, “the security-development nexus”, and on the tools to initialise and better manage synergies between various EU efforts. The conclusions also apply to bilateral interventions by EU member states in situations of transition.

The European Action Plan (Draft, September 2010) has been produced in response to the communications and Council deliberations above. The Action Plan covers four areas:

1. steps to improve the coordinated, coherent and holistic EU approach ("Whole of the EU") by the relevant EU actors – including from different policy communities (in particular security, development, humanitarian and diplomatic)
2. a focus on building peaceful, legitimate and inclusive states as the central objective for external intervention,
3. the challenge of making EU development assistance and support to reaching the MDGs more effective, responsive and adapted to the challenges of fragility and conflict, and
4. a deepening of international partnerships, both with global, regional and sub-regional organisations.
5. **Highlights - EC 2007 Communication of situations of fragility \***

* The communication requires the EC services to ensure that assessments of needs and priorities can be followed up by appropriate instruments allowing for timely and effective implementation. In other words, the EC should establish financial instruments and procedures that enable it to respond effectively to changing conditions in situations of fragility and transition.
* Better incorporation of LRRD analysis/assessment in CSPs/RSPs.
* Governance, institutional development and security have to be better integrated in the strategic (LRRD) framework in situations of transition.
* Better use of EC/EU political dialogue with third countries and incorporation of LRRD measures in high-level diplomacy.
* Funding mechanisms, such as trust funds managed by international agencies that are often used in this context, are not always able to support the implementation of reconstruction and rehabilitation programmes as rapidly as expected. Although they could, in principle, help ensure donor coordination and coherence, they should not be used as a substitute for local ownership and the EU's own presence.
* Efforts are still needed to both update the methods of implementation of the LRRD strategic framework, with due integration of governance and security concerns, as well as to adapt procedures and financial mechanisms to situations where flexibility is crucial.

**\*** for full references and hyperlinks to the relevant documents see Appendix 4 and EC Communication ‘Towards an EU Response to Situations of Fragility’ - engaging in difficult environments for sustainable development, stability and peace (Brussels, 25.10.2007, COM(2007) 643 final {SEC(2007) 1417}) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0643:FIN:EN:PDF>

1. **Highlights - Council conclusions on an EU Response to situations of fragility \***

* Fragility refers to weak or failing structures and to situations where the social contract is broken due to the State's incapacity or unwillingness to deal with its basic functions, meet its obligations and responsibilities regarding the rule of law, protection of human rights and fundamental freedoms, security and safety of its population, poverty reduction, service delivery, the transparent and equitable management of resources and access to power.
* Endorses, on behalf of the EU, the Principles for Good International Engagement in Fragile States and Situations, emphasizes the need for a "whole-of-government" approach.
* The EU should make more effective use of the full range of existing EU policy tools and external action instruments to address, in a coherent and timely manner, situations of fragility in partner countries. The EU response should therefore combine political, diplomatic, development, security and humanitarian instruments.
* In situations of fragility, political dialogue is especially important and should be further developed and reinforced. Where no such dialogue exists, confidence building measures should be considered.
* The Council also believes that a dialogue should be pursued with civil society and local authorities.
* Strengthen the role of Country Strategy Papers (CSPs), in line with national development strategies, as the preferred framework to prevent and address fragility
* Applying specific (more needs-based) country and regional allocation criteria, and ensuring that unforeseen needs can be met adequately.
* Integrating fragility in the review process of the Governance Initiative for ACP countries and developing similar tools for DCI countries.
* Making financial tools and procedures more flexible and capable to provide quick responses.
* Enhance the “Linking Relief, Rehabilitation and Development” (LRRD) strategic framework, in particular by integrating democratic governance and institutional developments.
* The EU as a whole needs to ensure that its support to partners' efforts in addressing fragility is more responsive, quicker and more flexible. The approach should be tailor-made, articulated and holistic, combining diplomatic action, humanitarian aid, development cooperation and security.

**\*** for full references and hyperlinks to the relevant documents see Appendix 4 and Council Conclusions on an EU response to situations of fragility - 2831st External Relations Council meeting, Brussels, 19-20.11.2007. <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/97177.pdf>)

1. **Highlights - Council Conclusions on Security and Development \***

* The Council… invites the Community, within the respective competences of its Institutions, to further enlarge and improve channels of dialogue and cooperation with civil society, NGOs, local authorities and the private sector. (Art.5).
* systematically carrying out security/conflict sensitive assessments and conflict analysis, where appropriate, in the preparation of country and regional strategies and programmes.

**\*** for full references and hyperlinks to the relevant documents see Appendix 4 and Council Conclusions on Security and Development 2831st External Relations Council meeting Brussels, 19-20.11.2007. <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/97157.pdf>

1. **Highlights - Draft European Action Plan**

* In situations of crisis or emerging crisis where there is the need and political will to use crisis management tools, EU-institutions and Member States need to ensure a coordinated, coherent and mutually reinforcing deployment of actions. Even if situations of urgency require rapid responses, the decision to have recourse to exceptional EU assistance measures and/or to launch CSDP activities needs to build on the existing long-term support.
* In certain circumstances of fragility, the provision of Budget Support (BS) may be the most appropriate aid instrument for avoiding serious deterioration of both the economic situation and the political equilibrium, underpinning stabilisation, and strengthening the State's limited financial capacity to ensure at least a minimum provision of its basic functions.

See Draft EU Action Plan for situations of fragility and conflict (28 September 2010) – follow up to the 2007 Council Conclusions on fragile situations and on security and development **(Hyperlink)**

## 2.3.2 Reinforcing the Union’s Disaster Response Capacity

The EU’s response capacity is the starting point for effective measures in situations of transitions. An EU Communication promoting a number of operational efforts that should improve the EU’s disaster response capacity was issued in 2008. These efforts include:

* the appointment of focal points on disaster and crisis response in each of the EC Delegations;
* increasing the importance of post-disaster needs assessments; and,
* strengthening ECHO’s disaster response capacity.

See [*EC Communication - Reinforcing the Union's Disaster Response Capacity. (Brussels, 5.3.2008, COM(2008) 130 final)*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0130:FIN:EN:PDF) *and*<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0130:FIN:EN:PDF>

**Extracts related to EC interventions in situations of fragility and transition to a state of resilience**

3. Towards a stronger EU response to Disasters

**3.1 Gradual Build-up of a more integrated coordination**

* *EC Delegations in third countries have reorganised themselves so that they can play their full role in the event of disasters. For example, as a pilot phase, six Delegations will specialise in disaster response, and each of the 130 Delegations around the world has a 'crisis correspondent' to act as the local contact point for disasters and political crises vis-à-vis Commission Headquarters, neighbouring Delegations and partners on the ground.*
* *The Commission is working to improve its delivery in cooperation with Member States, the UN and other international actors (e.g. through the development of Post Crisis Damage and Needs Assessments methodologies for post disaster scenarios - PDNA) and by providing support to the response capacity of key humanitarian actors, such as UN and the Red Cross movement, for their pre-positioning of humanitarian relief items that can be rapidly and cost-efficiently drawn upon in disasters.*

## 2.3.3 EU Strategy for Supporting Disaster Risk Reduction in Developing Countries

This proposed strategy contributes to reinforcing the European Union’s [response capacity](http://europa.eu/legislation_summaries/environment/civil_protection/ev0001_en.htm) in the event of [disasters and crises in Non-EU Member Countries](http://europa.eu/legislation_summaries/humanitarian_aid/l33233_en.htm). It is based on a report from the High Representative and the Commission on climate change and international security.

Many recurrent and chronic situations of transition necessitate development or strengthening of disaster risk reduction (DRR) and response capacity within the developing countries. Disaster (and crisis/conflict) reduction is identified as an overall objective of EU external relations, development policy and humanitarian assistance. Disasters can be avoided. There are ways to reduce risks and to limit impacts, for example by addressing the root causes of people’s vulnerability and increasing their capacity to cope. DRR comprises preparedness, mitigation and prevention. It aims to enhance resilience to disasters and is underpinned by knowledge about how to manage risk, build capacity, and make use of information and communication technology and earth observation tools.

Since 1996, the European Commission Humanitarian Aid department’s Disaster Preparedness Programme (DIPECHO) has targeted vulnerable communities in the six most disaster-prone regions of the world: South East Asia, Central Asia, South Asia, the Andean Community, Latin America and the Caribbean.

**Highlights \***

* Investing in DRR pays off. Effective DRR can reduce the loss of life and property. Studies suggest benefits in terms of prevented or reduced disaster impacts of two to four dollars for each dollar invested in DRR.
* The challenge is to translate it the strategy into effective action at global, regional, national and local level. Many developing countries are putting considerable effort into implementation, but are constrained by lack of funding and capacity
* The DIPECHO objective is to reduce the impact of natural disasters by strengthening local physical and human resources in high risk areas; demonstrating through pilot activities that simple inexpensive preparatory measures can save lives and livelihoods at community level. In parallel, it raises awareness among decision-makers for the need to integrate disaster risk reduction into longer term development policies.

**\*** for full references and hyperlinks to the relevant documents see Appendix 5 and [*EC Communication EU STRATEGY FOR SUPPORTING DISASTER RISK REDUCTION IN DEVELOPING COUNTRIES. (Brussels, 23.2.2009, COM(2009) 84 final ({SEC(2009) 217} {SEC(2009) 218} {SEC(2009) 220})*](http://ec.europa.eu/development/icenter/repository/Consultation5_issues_paper_EUStrategyFortDisaster_en.pdf) *and,*

<http://ec.europa.eu/development/icenter/repository/Consultation5_issues_paper_EUStrategyFortDisaster_en.pdf> and,

<http://ec.europa.eu/echo/files/policies/dipecho/presentations/programme_overview_11_07_en.pdf>

## 2.3.4 EU policy framework to assist developing countries in addressing food security challenges

Food security is often essential in situations of transition. It is also an area which clearly involves both humanitarian and development interventions in most situations of transition.

**Highlights of the framework \***

* Rural producers and communities need to be resilient in the face of food-related crises.
* While short-term responses to crises often require mobilisation of *ad hoc* humanitarian instruments, other mechanisms and capacities need to be built and maintained to reduce the risks of crises occurring and to manage their effects. Close linkage between humanitarian and development actors and instruments is essential.
* The EC will strengthen assistance mechanisms for vulnerable population groups by providing specific support to fragile countries in transition to resilience, using LRRD principles.

**\*** for full references and hyperlinks to the relevant documents see Appendix 6 and [*An EU policy framework to assist developing countries in addressing food security challenges (COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT, Brussels, 31.3.2010, COM(2010)127 final)*](http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2010_0127_EN.PDF), <http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2010_0127_EN.PDF>

## 2.3.5 Humanitarian Food Assistance

The EC sets out the EU humanitarian food assistance policy framework in a Communication to the Council and European Parliament in March 2010. The Communication explains:

* the issues and trends to be taken into account;
* the concepts, definitions and objectives that should drive humanitarian food assistance;
* the principles that should underscore this work; and
* the scope of activities undertaken.

The accompanying Staff Working Document explains, from a more detailed operational perspective, how the Commission programmes, implements and coordinates its humanitarian food assistance.

This Communication should be read in conjunction with the Commission's Communication on food security *("An EU policy framework to assist developing countries in addressing food security challenges"* See previous section*).* The EC deemed that these interrelated topics required two separate Communications in order to respect the distinction between their policy focus i.e. food assistance linked to humanitarian objectives for populations affected by crises in emergency contexts and food security linked to development objectives. The two policy frameworks have been designed in such a way as to ensure coherence and safeguard against uncoordinated overlap.

**Highlights \***

* Humanitarian food assistance operations and food security development interventions should be designed and implemented in such a way that together they ensure an optimal coverage of emergency and development needs, whether they succeed each other in a continuum or coexist in a contiguum, as in many fragile states. They should be coordinated and eventually dovetailed with each other so as to maximise opportunities for sustainable and durable impact, pursuing the ultimate objective of self-reliance for victims of food crises.
* EU humanitarian food assistance will therefore uphold Linking Relief Rehabilitation and Development (LRRD) principles and facilitate LRRD objectives, in accordance with the 2001 Commission Communication on LRRD, with the 2007 EU Humanitarian Aid Consensus, and within the stipulations of the Framework Partnership Agreement.
* The Commission recognises that its humanitarian instruments do not have a comparative advantage in addressing chronic food insecurity. In principle, it will not use humanitarian food assistance to address chronic food insecurity, except: where non-intervention poses immediate or imminent humanitarian risk of significant scale and severity; where other more appropriate actors, including its own development instruments, are either unable or unwilling to act, and cannot be persuaded to act; and where, in spite of its comparative disadvantages, positive impact can be expected within the time limitations of its intervention.

**\*** for full references and hyperlinks to the relevant documents see Appendix 7 and [*Humanitarian Food Assistance. COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT. Brussels, 31.3.2010 COM(2010) 126 final*](http://ec.europa.eu/echo/files/policies/foodaid/HFA_Communication_220310.pdf) and the policies of DG ECHO:

<http://ec.europa.eu/echo/files/policies/foodaid/HFA_Communication_220310.pdf> and,

<http://ec.europa.eu/echo/policies/strategy_en.htm>

# 2.4 Regulation framework for the Financial Instruments

This section covers the EC external financial instruments and associated procedures that contain special provisions to enhance the quality and effectiveness of EC interventions in situations of fragility and that assist the transition process to a state of resilience. The financial instruments consist of geographical and thematic programmes managed by the European Commission.

## 2.4.1 The Geographical Instruments

There are four geographical instruments – namely, the Instrument for Development Cooperation, the European Neighbourhood and Partnership Instrument, the Instrument for Pre-Accession Assistance and the European Development Fund. Each covers a specific ’Geographic Zone’[[10]](#footnote-10) designated by the EU. They are regulated by their own specific framework of intervention that applies to the particular list of countries within each “zone”. The first three instruments are subject to the financial regulations and implementing rules applicable to the European Budget. The fourth Instrument, the EDF is the implementing tool of the Cotonou Agreement and is subject to its own financial regulations and implementing rules, though these are harmonised with those of the Budget.

### 2.4.1.1 Development Cooperation Instrument (DCI) – geographic component

This instrument encompasses, first and foremost, cooperation with partner countries and regions selected geographically, namely: Latin America, Asia, Central Asia, the Middle-East and South Africa. The second DCI component consists of five thematic programmes, which are dealt with under the thematic instruments in Section 2.4.7. The third pillar of the DCI regulation is a series of secondary measures favouring the 18 ACP signatories to the sugar protocol.

For the geographic programmes, the Commission draws up a strategy paper and a multi-annual indicative programme and adopts an annual action programme for each partner country or region. In the case of thematic programmes, it draws up thematic strategy papers and adopts annual action programmes.

The Development Cooperation Instrument provides ample possibilities for financing of transition interventions. Flexibility to finance strategic interventions in situations of fragility and transition exists within the geographical programme component, though to a lesser extent within the thematic programmes.

**Highlights**: \*

* In circumstances such as crises, post conflict situations or threats to democracy, the rule of law, human rights or fundamental freedoms, a special emergency procedure may be used to conduct an *ad hoc* review of the country's or region's cooperation strategy. Such reviews may propose a country or regional strategy to make the transition to long-term cooperation and development.
* Where partner countries or groups of partner countries are directly involved in, or affected by, a crisis or post-crisis situation, multi-annual indicative programmes shall place special emphasis on stepping up coordination between relief, rehabilitation and development to help them make the transition from an emergency situation to the development phase;
* Programmes for countries and regions regularly subject to natural disasters shall provide disaster preparedness and prevention as well as the management of the consequences of such disasters.
* [In the event of unforeseen and duly justified needs or circumstances related to natural disasters, civil strife or crises, which cannot be funded by the Instrument for Stability](http://www.infocenter.zavodekvilib.si/en/dokumenti/regulation-ec-no-1717-2006-establishing-an-instrument-for-stability/), the Commission shall adopt special measures not envisaged by the strategy papers or multi-annual indicative programmes (hereinafter referred to as ‘special measures’). Special measures may also be used to fund measures to ease the transition from emergency aid to long-term development operations, including measures to better prepare people to deal with recurring crises.

**\*** for full references and hyperlinks to the relevant documents see Appendix 8 and *Regulation (EC) No* [*1905/2006*](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2006&nu_doc=1905) *of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation.*

### 2.4.1.2 The European Neighbourhood Partnership Instrument (ENPI)

The European Neighbourhood and Partnership Instrument directs European Union aid to 17 countries: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian National Authority, Russia, Syria, Tunisia and Ukraine. It is a specific component of trans-border cooperation which covers the border regions of the member states of the European Union.

This instrument goes beyond development in line with the Neighbourhood policy. However, the scope of EC assistance provided under ENPI is relevant in situations of fragility (see *Article 2* for full scope). As with the other external geographical instruments, the ENPI is not created specifically to address (post) crisis situations but still enables LRRD/Transition measures by allowing financing of interventions in (post) crisis situations. Furthermore, the instrument provides for *ad hoc* reviews and special measures in cases of crisis.

**Highlights: \***

* The ENP financial instrument allows the EC to provide support in post-crisis situations, including support to refugees and displaced persons, and assisting in disaster preparedness
* In the event of crises or threats to democracy, the rule of law, human rights and fundamental freedoms, or of natural or man-made disasters, an emergency procedure may be used to conduct an *ad hoc* review of strategy papers.
* Special measures may also be used to fund activities to ease the transition from emergency aid to long-term development activities, including activities intended to ensure that the public is better prepared to deal with recurring crises.

**\*** for full references and hyperlinks to the relevant documents see Appendix 9 and [*Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument.*](http://ec.europa.eu/europeaid/where/neighbourhood/index_en.htm)

### 2.4.1.3 The European Development Fund (EDF)

The EDF is the Financial Instrument used to implement the Cotonou ACP Partnership Agreement (Appendix 1). The EU Member States, meeting within the Council of 17 July 2006, adopted the 10th EDF Internal Agreement. This Internal Agreement has been complemented by an Implementing Regulation adopted by the Council on 14 May 2007, describing how the 10th EDF should be programmed and monitored, specifying further the role of the EDF management committee and paying particular attention to the mainstreaming of the aid effectiveness agenda in the programming process.

The Financial Regulations applicable to the 10th EDF are to a large extent similar to the Financial Regulations applicable to the EU budget, particularly when it comes to EC interventions in situations of crisis and transition. The FR provide the overall rules for implementation of EC aid within the ACP-EU Cotonou Agreement including Annex IV (implementing and management procedures)[[11]](#footnote-11) and in harmonisation with the COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities.

**Highlight: \***

* Part of the EDF resources allocated to national/regional programmes and/or intra-ACP initiatives may be used to respond to external shocks and for unforeseen needs, including, as appropriate, for complementary short-term humanitarian relief and emergency assistance where such support cannot be financed from the Community budget

**N.B.:** The specific Financing Regulations and implementing rules concerned with situations of fragility are addressed in detail in PART B – The Intervention Cycle.

**\*** for full references and hyperlinks to the relevant documents see Appendix 10 and the *INTERNAL AGREEMENT between the Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community aid under the multi-annual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies. L 247/32, Official Journal of the European Union,* [*9.9.2006*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:247:0032:0032:EN:PDF); the[*REGULATIONS COUNCIL REGULATION (EC) No 215/2008 of 18 February 2008 on the Financial Regulation applicable to the 10th European Development Fund*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:078:0001:0034:en:PDF); and *Articles 168, 171 & 253 of the Rules for implementing the Financial Regulation applicable to the general budget of the European Communities that apply mutatis mutandis to the Financial Regulation applicable to the 10th EDF.*

## 2.4.2 The Thematic Programmes and Instruments

The EU has Thematic Programmes that cover all countries except for the EU itself and industrialised countries and each has its own framework of intervention. There are five thematic programmes within the Development Cooperation Instrument (DCI). In addition, there are two stand-alone Thematic Instruments: the European Instrument for Democracy and Human Rights; and, the Instrument for Stability.

Thematic programmes complement the geographical programmes and may be used in several situations supporting:

* activities for different partner countries not part of the geographical programmes;
* activities which complement the geographical programmes by supporting other stakeholders, such as civil society organisations or international institutions with exclusive competence;
* activities which imply a certain independence in relation to the partner country.

The interrelationship of the EC Financing Instruments is graphically demonstrated in Figure 4.

Figure 4: The inter-relationship between the EC Financing Instruments for Development and Stability[[12]](#footnote-12)



### 2.4.2.1 European Instrument for Democracy and Human Rights (EIDHR)

The promotion, development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms constitute a prime objective of the Community’s development policy and economic, financial and technical cooperation with third countries. The EIDHR instrument promotes democracy and human rights worldwide and can grant aid where no established development cooperation exists and can intervene without the consent of third country governments and other public authorities. It can support groups or individuals within civil society defending democracy, as well as intergovernmental organisations that implement the international mechanisms for the protection of human rights.

Working with, for and through civil society organisations gives to the EIDHR its critical profile and it is thus an important tool in situations of fragility, playing a significant role in promoting and assisting countries to become more resilient.Assistance under EIDHR complements other tools which are used to implement EU policies for democracy and human rights. These range from political dialogue and diplomatic initiatives to various instruments for financial and technical cooperation, including the [Development Co-operation Instrument](http://ec.europa.eu/europeaid/how/finance/dci_en.htm) and [ENPI](http://ec.europa.eu/europeaid/how/finance/enpi_en.htm). It also complements the more crisis-related interventions of the [Instrument for Stability](http://ec.europa.eu/europeaid/how/finance/ifs_en.htm).

**Highlights: \***

* The Commission needs to consult representatives of civil society, as well as other donors and actors, as early as appropriate in the programming process in order to facilitate their respective contributions and to ensure that assistance activities are as complementary to each other as possible.
* The Community needs to be able to respond rapidly to unforeseen needs and in exceptional circumstances in order to enhance the credibility and effectiveness of its commitment to the promotion of democracy and human rights in countries where such situations arise. This requires that the Commission have the possibility to decide on Special Measures not covered by Strategy Papers. This assistance management instrument corresponds to those included in the other external assistance financing instruments.
* The Community should also be able to respond in a flexible and timely manner to the specific needs of human rights defenders by means of ad hoc measures which are not subject to calls for proposals. Moreover, eligibility of entities which do not have legal personality under the applicable national law is also possible under the conditions of the Financial Regulation.

**\*** for full references and hyperlinks to the relevant documents see Appendix 11 and [*REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide*](http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm)

### 2.4.2.2 The Instrument for Stability (IfS)

The Instrument for Stability aims to strengthen security in partner countries where there is an actual or emerging crisis (short-term component). It also guarantees security in stable countries (long-term component).

Endowed with some €2 billion over the period 2007-2013, the Instrument for Stability enables the EU to respond to crises in a timely, efficient and more coordinated manner, acting when no other EU cooperation instruments are available. Since its inception in 2007 a significant number of IfS measures have been crafted to complement the overall EU or broader international response in the field, often in parallel to humanitarian assistance with a view to enhance the link between relief, rehabilitation and development (LRRD) or around CSDP missions, with a view to furthering the political aims of these EU interventions.

The **IfS ‘crisis response’ component**, under Article 3 of the IfS Regulation, represents the bulk of the budget (€1.4 billion for the period 2007-2013) to provide assistance in response to crises or emerging crises. IfS interventions can be mobilised faster than mainstream development instruments because decisions can be adopted by accelerated procedures as there are no programming requirements, and - for amounts up to €20 million - there is no requirement to receive the opinion of a management committee.

The IfS operates across the nexus between security and development and is designed as a complementary instrument to the mainstream geographical and thematic EU external action instruments (IPA, ENPI, DCI, EDF, EIDHR), when these instruments cannot offer an appropriate and timely response to a given crisis. The Instrument is not meant to intervene for essentially humanitarian or military purposes, but can otherwise be used in the wide field of conflict prevention, crisis response and peace-building.

Technical and financial aid to respond to a crisis or emerging crisis covers a wide range of activities, *inter alia*, from support for the development of democratic, pluralistic state institutions, and an independent judiciary, good governance and law and order, to support for international criminal tribunals and *ad hoc* national tribunals, truth and reconciliation commissions, the promotion of independent and pluralist media, aid for the victims of the illicit use of firearms, support to relieve the impact on the civilian population of anti-personnel landmines, or explosive remnants of war.

The IfS is also being used to support the EU involvement in the preparation of the Post disaster Needs Assessment (PDNA) and the Post Conflict Needs Assessment, in conjunction with the UN and WB (refer to Appendix 12, Annex 1).

It has proven flexible and rapid in its operating modalities, as its time-bound “exceptional assistance measures” (up to 18 months with the possibility of a 6 month extension under certain conditions) are not programmable but intervene in response to a man-made crisis or a major natural disaster. This absence of programming requirements (and related ‘comitology’ procedure) markedly reduces the lead time between early identification and financing decision to some two to three months as compared to well over a year in the case of programmed instruments.

As regards assistance in the context of stable conditions for cooperation, the fields concerned cover pre- and post-crisis capacity building, threats to law and order, the security of individuals, critical infrastructure and public health. The aim is to strengthen the capacity of the law-enforcement judicial and civil authorities involved in the fight against terrorism, organised crime and drug trafficking, to respond to threats concerning international transport, to public health, such as epidemics with a potential trans-national impact, and to improve risk mitigation and preparedness relating to chemical, biological, radiological and nuclear materials or agents.

In theory, the IfS also seem as the ideal ‘bridging’ instrument that complements actions financed under the humanitarian and development instruments.

**Highlights: \***

* the Community, within the respective competences of its institutions, will develop a comprehensive prevention approach to State fragility, conflict, natural disasters and other types of crises, to which goal this Regulation should contribute.
* in a situation of crisis or emerging crisis, (the IfS seeks) to contribute to stability by providing an effective response to help preserve, establish or re-establish the conditions essential to the proper implementation of the Community's development and cooperation policies.
* Technical and financial assistance … shall cover the following areas: …(e) support for measures necessary 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 and the establishment of the minimum conditions necessary for sustainable social development…(m) support for socio-economic measures to promote equitable access to and transparent management of natural resources in a situation of crisis or emerging crisis….(n) support for socio-economic measures to address the impact of sudden population movements, including measures addressing the needs of host communities in a situation of crisis or emerging crisis… (p) support for measures in response to natural or man-made disasters and threats to public health in the absence of, or to complement, Community humanitarian assistance.
* Community assistance under this Regulation shall be implemented through the following measures: (a) Exceptional Assistance Measures and Interim Response Programmes; (b) Multi-country Strategy papers, Thematic Strategy Papers and Multi-annual Indicative Programmes; (c) Annual Action Programmes; (d) Special Measures.

**\*** for full references and hyperlinks to the relevant documents see Appendix 12 and [*Regulation (EC) No 1717/2006 of the Parliament and of the Council of 12 November 2006 establishing an Instrument for Stability*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:327:0001:0011:EN:PDF)and *The Instrument for Stability (IfS) Guidance Note 2010* **Hyperlink.** For further information on all the areas that can be financed by the Instrument of Stability in situations of crisis or emerging crisis see [Art. 3](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:327:0001:0011:EN:PDF)

### 2.4.2.3 The Development Cooperation Instrument (DCI): thematic component

There are five thematic programmes within the Development Cooperation Instrument (DCI), namely:

* 1. [*Food security*](http://ec.europa.eu/europeaid/how/finance/dci/food_en.htm),
  2. [*Non-state actors and local authorities in development*](http://ec.europa.eu/europeaid/how/finance/dci/non_state_actors_en.htm),
  3. [*investing in people*](http://ec.europa.eu/europeaid/how/finance/dci/investing_en.htm)*,*
  4. [*Migration and asylum*](http://ec.europa.eu/europeaid/how/finance/dci/migration_en.htm)and, finally,
  5. [*Environment and sustainable management of natural resources including energy*](http://ec.europa.eu/europeaid/how/finance/dci/environment_en.htm)***[[13]](#footnote-13)***.

Each thematic programme within the DCI is regulated on the basis of decisions made by the European Parliament and the Council of the EU, which specify the priorities and respective funding for a period of two or three years. The new programming period covers 2010-2013. The programming is laid down in thematic strategy papers (Multi Indicative Programme, MIP) that are available on the EC websites. As of 2011, in the current funding cycle, only the first two of these Thematic Programmes have particular significance in situations of fragility and in assisting in the transition to a state of resilience.

**a)** [***Improvement of food security***](http://europa.eu/legislation_summaries/development/general_development_framework/r12546_en.htm)***: \****

The Development Cooperation Instrument (DCI) is the legal basis for the Food Security Thematic Programme (FSTP). Lessons learnt from the first phase of the Thematic Strategy (2007-2010) and the recent Communication 'An EU policy framework to assist developing countries in addressing food security challenges' (See Appendix 6) have prepared the ground for the second phase of the FSTP. This thematic instrument continues to complement the European Union's (EU) commitment towards achieving the Millennium Development Goal on the eradication of poverty and hunger (MDG 1). It accompanies EU geographical instruments by addressing the global, continental and regional dimensions of food security and by ensuring transition from relief to development, as well as assisting countries in particularly fragile situations. In Africa, in particular, the FSTP will contribute to the implementation of the Joint Africa-EU Strategy.

The objective of the revised FSTP strategy remains: 'to improve food security in favour of the poorest and most vulnerable and contribute to achieving MDG 1, through a set of actions which ensure overall coherence, complementarity and continuity of EU interventions, including in the area of transition from relief to development as well as in particularly fragile situations'. National food security programmes are covered by the geographical instruments, so this thematic programme is guided by the following strategic priorities:

1. Supporting research, innovation and information distribution in matters relating to food security, with a special focus on supporting the enhancement of capacities and scientific and technological cooperation;
2. Linking information and decision-making in order to enhance response strategies; Using the potential of continental and regional approaches;
3. Responding to food insecurity in exceptional transition situations as well as in fragile and bankrupt states;
4. Promoting innovative approaches (e.g. nutrition, etc.);
5. Encouraging the advancement of the food security programme, and
6. Harmonisation and alignment with development partners, civil society and donors.

***NB:*** *The FSTP programme does not include the financing of humanitarian food aid, which is now managed by the humanitarian aid service of the European Commission (ECHO). (See Humanitarian Instruments in Sections 2.2.1, 2.3.5, 2.4.8 and Appendices 2, 7 and 13)*

**\*** for full references and hyperlinks to the relevant documents see Appendix 8 and [*Food Security Thematic Programme*](http://ec.europa.eu/europeaid/how/finance/dci/food_en.htm)*;* [FSTP Thematic Strategy Paper (Update) and Multiannual Indicative Programme 2011-2013](http://ec.europa.eu/development/icenter/repository/FSTP%202011-2013_Commission%20adoption.pdf)

**b)** [***Non-state actors and local authorities in development***](http://ec.europa.eu/europeaid/how/finance/dci/non_state_actors_en.htm)***:* \***

The primary aim of this new programme is to strengthen the abilities of non-state actors and local authorities to provide help. It also serves to co-finance actions in areas as diverse as rural development, health, environmental protection and education, as well as long-term partnerships between civil society and local authorities. The instrument supports country and regional programmes where they exist, while acting as a catalyst of change in countries where they do not. It may also play a role in the most fragile states and post-conflict countries (by building on initiatives financed as part of the humanitarian assistance) and it offers funding through global initiatives for direct action in countries with critical MDG indicators. It is usually implemented via a call for Proposals.

**\*** for full references and hyperlinks to the relevant documents see Appendix 8 and [*Non-state actors and local authorities in development*](http://ec.europa.eu/europeaid/how/finance/dci/non_state_actors_en.htm)

## 2.4.3 The Humanitarian Instrument

### 2.4.3.1 Instrument for Humanitarian Aid

Humanitarian aid is aimed first and foremost at the people in developing countries and covers not only short-term relief but also disaster prevention and reconstruction operations. Such operations last as long as is necessary and are targeted at the immediate requirements arising out of natural (e.g. flooding, earthquakes) or man-made disasters (e.g. outbreaks of war and fighting) and other exceptional comparable circumstances.

The financial regulation establishing the instrument for humanitarian aid dates from 1996 but the overall policy framework guiding the actions financed by the instrument is provided by the European Consensus on Humanitarian Assistance (Appendix 2). The 1996 Regulation governs the implementation of all EU operations providing humanitarian assistance to victims whose own authorities are unable to provide effective relief. This is an important aspect of external relations and, by focusing on supplies and services, the policy aims to prevent and alleviate suffering. A humanitarian aid operation can be initiated at the request of the Commission, NGOs, international organisations, Member States or beneficiary countries (Chapter 2, Article 6).

Humanitarian aid plays a critical role in linking relief, rehabilitation and development. The EC financial instrument regulating the objectives, principles, and types of actions provides ample possibility and opportunity to trigger synergies and coherence with other EC financial instruments, such as the [*Instrument for stability*](http://ec.europa.eu/europeaid/how/finance/ifs_en.htm)***[[14]](#footnote-14)***, the [*Development Co-operation Instrument*](http://ec.europa.eu/europeaid/how/finance/dci_en.htm)and the European Development Fund.

**Highlights \***

* Humanitarian aid is aimed first and foremost at the people in developing countries and covers not only short-term relief but also disaster prevention and reconstruction operations. Such operations last as long as is necessary and are targeted at the immediate requirements arising out of natural (e.g. flooding, earthquakes) or man-made disasters (e.g. outbreaks of war and fighting) and other exceptional comparable circumstances.
* EC Humanitarian aid can be used to carry out short-term rehabilitation and reconstruction work, especially on infrastructure and equipment, in close association with local structures, with a view to facilitating the arrival of relief, preventing the impact of the crisis from worsening and starting to help those affected regain a minimum level of self-sufficiency, by taking long-term development objectives into account.
* When it comes to making decisions concerning Humanitarian Aid, the Commission has three separate decision-making procedures available:
* **the delegation procedure**: to speed up the response to sudden emergencies, the Commission has delegated powers to the Director of the Directorate-General for Humanitarian Aid (ECHO) for primary emergency humanitarian decisions within certain limits (maximum amount of EUR 3 million, maximum duration of three months);
* **the empowerment procedure**: the Member of the Commission responsible for humanitarian aid is empowered to take decisions relating to emergency operations up to EUR 30 million for a maximum of six months as well as non-urgent decisions up to a maximum of EUR 10 million.
  + *These decisions are subject to a* ***consultation procedure*** *(cabinets, interdepartmental). Emergency decisions exceeding EUR 10 million and non-urgent decisions exceeding EUR 2 million require Humanitarian Aid Committee approval; and lastly,*
* **the written procedure:** for all decisions not covered by the delegation or empowerment procedures

**\*** for full references and hyperlinks to the relevant documents see Appendix 13 and [*Council Regulation Concerning Humanitarian Aid (EC) No 1257/96 of 20 June 1996 (amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 & Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009)*](http://www.mzv.sk/App/wcm/media.nsf/vw_ByID/ID_3BDE427F1E6259F6C1257669003D6166_SK/$File/CouncilRegulation1257_96.pdf)

## 2.4.4 Financial Regulation of the Financial Instruments and Programmes

### 2.4.4.1 The Financial Regulations and Implementing Rules applicable to all Instruments and Programmes financed under the EU Budget.

a) The Financial Regulations

The Financial Regulations (FR) apply to the implementation of financial resources from the multi-annual budget (2008-2013). They are important for the actual delivery of EC interventions in situations of fragility and transition to a state of resilience.

**Highlights: \***

* In crisis management aid and humanitarian aid operations, **grants can be provided without being included in an annual work programme** (Art. 110).
* **Eligible costs can be incurred prior to the date of submission of the grant application in duly substantiated exceptional cases,** as provided for in the basic act or in the case of expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations as provided in the implementing rules, (Art. 112)

**\*** for full references and hyperlinks to the relevant documents see Appendix 14 and [COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1](http://www.bsrinterreg.net/programm/_downloads/EC_No_2002_1605_en_Budgetary_principles.pdf)*); amended by* [COUNCIL REGULATION (EC, EURATOM) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:390:0001:0026:EN:PDF)

b) The Implementing Rules applicable to the EC Budget Financial Regulations

The implementing rules detail the Financial Regulations and provide further guidance on how actions can be carried out in situations of transition. Each article in the Implementing Rules refers to the associated rules of the Financial Regulations. These rules are further developed by the EC headquarter services in practical guides (such as the PRAG), templates, instructions etc.

In particular, the implementing rules provide the basis for declaration of crisis and use of direct negotiation (single procurement) of contracts and grants in fragile and transitional situations.

**Highlights: \***

* Article 168 (2) establishes that a Crisis situation shall be understood to mean, for third countries, a situation posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:
* the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;
* the security of the European Union, peace-keeping and international security, promotion of international cooperation or developmentand strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms
* In such Crisis Situations contracting authorities may use the negotiated procedure without prior publication of a contract notice, whatever the estimated value of the contract, for reasons of extreme urgency due to unforeseeable events (Art. 126)
* In such Crisis Situations grants may be awarded without a call for proposalsonly in the following cases: (a) for the purposes of humanitarian aid and aid for crisis situations within the meaning of Article 186 (2) and(b) in other exceptional and duly substantiated emergencies.
* The financing of a grant in full may be authorised in the following cases:
  + humanitarian aid, including assistance for refugees, uprooted persons, rehabilitation and mine clearance; aid in crisis situations within the meaning of Article 168 paragraph 2; actions resulting from the implementation of financing agreements or actions with international organisations (for grants financed under the EU budget). The financing of an operation in full may be authorised if the Contracting Authority can substantiate that financing in full is essential in order to carry out the operation in question.

**\*** for full references and hyperlinks to the relevant documents see Appendix 14 and [COMMISSION REGULATION (EC, EURATOM) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:357:0001:0071:EN:PDF), *amended by* [Commission Regulation (EC, Euratom) No 1261/2005 of 20 July 2005](http://ec.europa.eu/europeaid/work/procedures/legislation/financial_regulation/documents/budget_modex_modification_2005_en.pdf) *and by* [COMMISSION REGULATION (EC, EURATOM) No 478/2007 of 23 April 2007](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:111:0013:0045:EN:PDF)*)* lays down detailed rules for the implementation of [Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:357:0001:0071:EN:PDF) *as amended by* [COUNCIL REGULATION (EC, EURATOM) No 1995/2006 of 13 December 2006](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:390:0001:0026:EN:PDF)

### 2.4.4.2 The Financial Regulations and Implementing Rules applicable to the EDF

These have been referred to in Section 2.4.1.3 and in (Appendix 10).

**Part III: The Operational cycle**

The Cotonou Agreement, the Lisbon Treaty and the European Consensus on Development Policy commit the European Commission to intervene in situations of transition in a speedy, effective and flexible manner. The related regulation for the instruments (Instrument for Stability), the financial regulations, the implementing rules and the practical guide (PRAG) foresee such interventions. The possibility for flexible intervention in transition will be presented in line with the following phases of the intervention cycle:

* design and review of the country strategy - programming,
* Identification and formulation
* financing decision,
* implementation of project and programmes.

Figure 5: The Operational Cycle

***new programming***

***previous programming influence***

NIP/RIP

Thematic Programmes

Annual, mid-term and *ad hoc* reviews

Identification fiche

Result oriented monitoring

External action reports

Design intervention

* Action fiche (s)

Financing Decision

* Annual Action Plan
* *Ad Hoc* Decision
* Special measures

Budget Support

Programme Estimates

Contracts:

* Service
* Works
* Supply

Grants

Financing Agreement

De-centralised Management

Delegation Agreement

(Member States)

Contribution Agreement or Administrative Agreement

(UN, WB)

Contribution Agreement or Administrative Agreement

(UN, WB)

Centralised Management

Grants

Contracts:

* Service
* Works
* Supply

The following sections will explain the existing EC regulations and legislation that may be used to modify each stage in the above cycle to permit faster and more flexible responses in post-crisis situations.

# 3.1 Programming of EC development assistance

Figure 6: Programming in the intervention cycle

***previous programming influence*** ***new programming***

NIP/RIP

Thematic Programmes

Annual, mid-term and *ad hoc* reviews

## 3.1.1 Mid Term Reviews of development programming

It may seem odd to start the programming cycle with what appears to be the last step, but the Mid Term Reviews of EC country and thematic strategy papers is a crucial phase of the programming process, which should improve the usefulness of CSPs and thematic strategy papers as tools for guiding the future EC interventions in a given country. Completely new programming devoid of the influence of lessons learned and implementation experience is a rare occurrence.

The MTR guidelines provide a general approach to the performance and needs based reviews which incorporate a fair amount of possibility to adapt, change and update the CSP so that it is based on the national context and thus provides a basis for analysing and assessing, whenever relevant, post-conflict and transition measures. The last MTR was completed in 2010, but the guidance notes’ references to Fragility and transition are of interest.

**Highlights: \***

* The 2010 Mid Term Review should, where appropriate adapt the CSP/RSPs including analysis and assessment of the state-building priorities brought about by situations of fragility, and the need to address the root causes of insecurity and conflict.
* The MTR guidelines state that joint programming, leading to more concentration, enhanced complementarity and division of labour, must not result in donor gaps (notably in the social sectors and in linking short term relief, rehabilitation and long term development - LRRD).
* Concentration of EDF aid is a key principle applied throughout the programming of CSP/RSPs but the MTR guidelines states that in situations of fragility or where a country is a donor orphan, there could be valid reasons for a wider spread of activities in order to avoid gaps or orphan sectors in external aid.
* The 2010 MTR should take into account situations of fragility and of increasing risk of natural disasters as a result of climate change. Special attention should be given to food security and LRRD situations, including preventive disaster risk reduction measures taken or envisaged. The articulation between short term relief, medium term rehabilitation and long term development interventions and the prospects for future funding must be taken into account knowing that ECHO has no mandate to maintain its presence beyond the relief and early rehabilitation phases.

**\*** for full references and hyperlinks to the relevant documents see Appendix 15.

## 3.1.2 The common framework for joint multi-annual programming

The programming of the country/regional strategy papers (CSP/RSPs) guides the overall logic of EC interventions in third countries. The Framework for such planning is a multi-annual programming instrument aimed at improving the quality of the Commission's planning. As such, it offers an updated, analytical tool and is essential for guiding specific EC interventions in transition situations. It was adopted in 2000, as part of the [reform of the management of the Commission's external aid](http://ec.europa.eu/external_relations/reform/intro/index.htm).

Between 2000 and 2006 it was applied to the programming of the CSPs and RSPs for all developing countries benefiting from the [European Development Fund](http://europa.eu/legislation_summaries/development/african_caribbean_pacific_states/r12102_en.htm) (EDF) or from the [ALA](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/asia/r14001_en.htm), [Meda](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/mediterranean_partner_countries/r15006_en.htm), [Tacis](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/eastern_europe_and_central_asia/r17003_en.htm) and [Cards](http://europa.eu/legislation_summaries/enlargement/western_balkans/r18002_en.htm) programmes. Programming of thematic programmes (DCI) was added as of 2006. The relevance, quality and effectiveness of these Strategy Papers are ensured through regular Annual Operational Reviews and mid-term reviews. [programming](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0088:FIN:EN:PDF)

Two papers may be of use here to programmers:

1. **EC Communication:**

*Communication from the Commission to the Council and the European Parliament of 2 March 2006: Increasing the impact of EU aid: A common framework for drafting country strategy papers and joint multi-annual programming [*[*COM (2006) 88*](http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2006_0088_F_EN_IMPACT_EUROPEEN.pdf) *final - Official Journal C 130 of 3 June 2006].*

1. **Council conclusions:**

Subject: Financing for Development and Aid Effectiveness: Delivering more, better and faster - Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council [No. 8243/1/06 REV 1 DEVGEN 94 RELEX 215 FIN 123 COUNCIL OF THE EUROPEAN UNION Luxembourg, [11 April 2006](http://ec.europa.eu/development/icenter/repository/GAERC_2006_en.pdf)]

**Highlights:**

* Programming should serve to identify the type of partnership: efficient, difficult/fragile state, post-conflict. Accordingly, in fragile states, post-conflict countries and specific cases of countries that have yet to achieve “structural stability” or are showing signs of increasing instability, greater attention should be given to analysing measures taken to ensure security and stability, including conflict prevention and management, post-conflict intervention strategies…The issues of transition and LRRD will have to be taken into account.
* The principle of ownership must be adapted in the event of difficult partnerships or post-crisis situations in particular, and alternative approaches must be sought (shadow alignment; work with civil society, etc.).

The following are the most important legal provisions guiding the EC programming cycle used for thematic, regional and country strategy papers in EU development cooperation:

* The European Commission has a political mandate to elaborate specific guidelines for rapid, flexible and effective programming of development aid in situations of transitions (Section 2.1.2 Appendices 1 & 3),[[15]](#footnote-15)
* Fragility, peace-building, post-crisis and LRRD are defined as key objectives for EU external relations in the existing policy frameworks, overall EC policies, the ACP-EU Cotonou agreement and, to a certain extent, in the Lisbon Treaty. As a consequence, fragility and transition can be identified as focal or non-focal sectors (areas of concentration) in EU programming documents (CSP/RSPs). Furthermore, a specific QSG fiche assists with integrating transition and LRRD requirements into the programming.
* Resource allocations shall take account of difficulties facing countries dealing with aftermath of conflict or natural disaster (Section 2.1.2, 2.2.2, 2.4.1 & 2.4.7; Appendices 1,3 & 8) [[16]](#footnote-16)
* Programming shall include an allocation to cover unforeseen needs such as post-crisis situations (Art. 1 & 3 of Annex IV, Cotonou, DCI article 19). The 2010 revision of Cotonou introduces such non-programmable envelopes at the regional levels.(Section 2.1.2, 2.4.1 & 2.4.7; Appendices 1 & 8)
* The EC can take over programming, management and implementation of EC/EDF funds in post-conflict or transition situations where the recipient state is unable to carry out the duties related to EU aid (Art.4 in Annex IV of Cotonou, Art. 2 of Implementing Rules) (Section 2.1.2 & 2.4.3; Appendices 1 & 10)
* The EC can use allocated funds to cover additional costs related to programming, implementation or administration when it takes over partner government/NAO responsibilities in ACP countries (EDF10 implementing rules, art.36) (Section 2.4.3 & Appendix 10)
* EC/EDF funds can be used for special support whenever the EC takes over programming or implementing powers (art. 4 of Annex IV in the Cotonou Agreement) (Section 2.1.2, 2.4.3 & Appendices 1, 10)
* *Ad hoc* reviews of programming leading to changes in strategies, focal sectors etc. can be carried out in crisis or post-crisis situations (Art. 5 & 11 of Annex IV in the Cotonou Agreement) (Section 2.1.2 & Appendix 1)
* When programming is not possible due to local circumstances or sanctions, provisions can be made for use of EDF funds (art. 3.4 of Annex IV in the Cotonou Agreement) (Section 2.1.2 & Appendix 1)
* Rapid, flexible and effective programming procedures must be used to respond to crisis and post-crisis situations (As stipulated in the Cotonou Agreement, European consensus on development cooperation and humanitarian assistance) (Section 2.1.2, 221 & Appendix 1)
* In certain circumstances of fragility, political analysis may justify the provision of budget support as the most appropriate aid instrument for avoiding serious deterioration of both the economic situation and the political Equilibrium, for underpinning stabilisation, and for strengthening the State's limited financial capacity to ensure at least a minimum provision of its basic functions. (Article 72 and 73 of the Cotonou Agreement and in Article 168(2) of the Implementing Rules of the EC Budget Financial Regulation). (Section 2.1.2; Appendix 1 & 14)

## 3.1.3 The Governance Incentive Tranche in EC Development programming

The incentive tranche is an additional allocation which tops up the initial allocation and is in principle allocated to the sectors already identified in the NIP/RIP on the basis of the principles of unity of programming, of concentration and of complementarity among donors, following the MTR.

The governance profile is a programming tool. Its main objective is to help identify specific areas of cooperation (weaknesses) and agree on benchmarks and targets for reform (Government commitments). It will help to assess the extent to which commitments undertaken by a partner country are relevant, ambitious and credible for the “incentive tranche”.

**Highlights: \***

* The (governance) profile, to be updated regularly, should be done for all country situations including: effective and stable partnerships; difficult partnerships and fragile states; and, post-conflict situations.
* When assessing the governance action plan, special attention shall be given to countries coming out of a crisis or in a situation of fragility.

**\*** for full references and hyperlinks to the relevant documents see Appendix 16 and[The governance profile - explanatory note and template (Annex 1)](http://ec.europa.eu/development/icenter/repository/ACP_governance_profile_explanotev2_en.doc)*;* and the [Governance incentive tranche – Methodology (EC staff working paper)](http://ec.europa.eu/development/icenter/repository/ACP_governance_incentivetranche_methodologyv2_en.doc)

## 3.1.4 Integrated Transition Strategies in EC development programming

The iQSG fiche on integrating transition strategies in EC development programming was elaborated in the early stages of the 2008-2013 programming of CSP/RSPs.

The programming fiche provides specific support to EC delegations and EC headquarter services on how best to take account of issues linked to EC interventions in situations of fragility and transition and the integration of relief, rehabilitation and development. It complements the above-mentioned general programming guidelines by specifically targeting requirements in situations of post-crisis and/or chronic instability.

**Highlights: \***

* In particular, transition should apply to those countries where ECHO has foreseen an exit strategy.
* Very close liaison with ECHO will be essential in the initial programming or revision process.
* The transition strategy, which should be based on a realistic analysis of the crisis situation, will attempt to define strategic orientations, objectives and priorities for a foreseeable period (which will inevitably be shorter or longer depending on the nature and gravity of the crisis), linking and integrating different interventions and instruments. In most cases, indeed, there will be no chronological transition between different instruments, but simultaneous funding.
* In countries where the crisis occurs once a Country Strategy Paper and a work programme already exist (the majority of cases), the CSP will still remain the main reference document for EC assistance, but will need an *ad hoc* review setting up a transition strategy, with special measures contributing to the establishment or restoration of the essential conditions for the implementation of medium, long-term development cooperation.

**\*** for full references and hyperlinks to the relevant documents see Appendix 17 and:

**a)** Communication from the Commission to the Council and the European Parliament. Increasing the impact of EU aid: a common framework for drafting country strategy papers (CSPs) and principles towards joint multi-annual [programming](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0088:FIN:EN:PDF)

**b)** [Programming Guide for Strategy Papers: Programming Fiche. Integrated transition strategies (October 2008)](http://ec.europa.eu/development/icenter/repository/F32_LRRD_fin_en.pdf)

## 3.1.5 The approval process for the NIP

The standard approval process for the programming documents is shown in Figure 7. This is usually completed once every five years taking the previous mid-term review, where applicable, into account. It governs the formulation of the AAP over the period of operation. However, in certain circumstances, such as crises, post-conflict situations or threats to democracy, the rule of law, human rights or fundamental freedoms, a special emergency procedure may be used to conduct an *ad hoc* review of the country’s or region’s cooperation strategy. Such a review may be called for by either party. The conditions of the review, highlighted below, demonstrate how the process may be accelerated in the case of manifest urgency.

Figure 7: Approval Process from Draft programming to NIP/RIP Decision

***Relevant committee***

***(Comitology)***

***Draft***

***National/ Regional Indicative Program***

***DG Other DGs College***

**Adoption NIP/RIP**

***(Internal (Inter-Service (Submission***

***EP***

***(Scrutiny) for non-EDF***

***Consultation) Consultation) for adoption)***

**Highlights: \***

* ***Consultation inter services***: In case of manifest political urgency, the lead department can: (i) use the fast-track procedure in form of an inter-service coordination meeting convened at least 48 hour after the registration or (ii) launch a consultation in CIS-Net with a shorter time limit. Fast Track procedures require prior authorisation of the Secretariat General upon a duly formal request, the presence in the inter-service consultation meeting of the departments most directly concerned by the measure and recorded minutes of the meeting.
* ***Comitology:*** No specific conditions for adoption of strategic documents and multi-annual programmes, however according to urgency, the chairman sets the time limit to enable the Committee to express its opinion on the draft proposed. On the implementing measures, the Committee's opinion can be obtained by written procedure with a response period in a minimum 15 working days. In duly substantiated urgent situations, the documentation necessary for the Committee’s opinion could be sent to the members 5 working days before the date of the meeting (or the response to the written procedure) or in extreme urgency, the chair can depart from the period requirement. The urgency should be duly substantiated in writing.
* ***Parliament scrutiny (for strategic document and budget only):*** If the urgency is duly substantiated, the time for scrutiny could be shortened from the normal period (30 working days) and shall start to run when the draft of measures has been submitted to Parliament in all the official languages.
* ***Decision***: In case of decision taken through written procedure the adoption period can be shortened from at least 5 working days to 3 (accelerated written procedure) or less than 1 day (urgent written procedure).

**\*** for full references and hyperlinks to the relevant documents see Appendix 8, 9, 10 & 19.

Table 3: Design and review of the Country strategy – programming

|  |  |  |  |
| --- | --- | --- | --- |
| Main elements | Respective articles for ACP and Non ACP countries | Section | |
| ACP | non ACP |
| ***Resource allocations*** shall take account of difficulties facing countries dealing with aftermath of conflict or natural disaster | ***ACP:*** Art. 1 to 5 of Annex IV of Cotonou Agreement; Art 2.a of the Council Regulation for 10th EDF;  ***Non ACP:*** Art. 18, Art. 19 of the DCI; Art. 2 of the ENPI | 2.1.2  2.4.3 | 2.1.1; 2.4.1; 2.4.2; 3.1.3 |
| ***Allocation to cover unforeseen needs*** such as post-crisis situations (including regional allocation) | ***ACP:*** Art. 1, 3, (9) of Annex IV of Cotonou Agreement; Art 2.c of the Council Regulation for 10th EDF  ***Non ACP:*** Art. 23.1 of the DCI; Art. 8 of the ENPI | 2.1.2  2.4.3 | 2.1.1; 2.4.1; 2.4.2; 3.1.3 |
| ***Constitution and use of emergency reserve*** | ***Non ACP***: Art 24, 26, 45of the FR & Art 20 of the IR | 2.4.4.1, (App. 14) | |
| ***Integrated transition strategies*** in a post-crisis situation development, - joint multi annual programming | COM(2006) 88[[17]](#footnote-17), Annex to the Council conclusion 8243/1/06[[18]](#footnote-18); Guidelines for MTR and programming; Programming guide for strategic papers | 3.1.1; 3.1.3 | |
| Fragility and transition can be identified as focal or non-focal sector (area of concentration) in EU programming documents (CSP/RSPs). | ***ACP***: Art. 60 of Cotonou Agreement  ***Non ACP***: Art. 5 of the DCI; Art. 2 of the ENPI | 2.1.2  2.4.3 | 2.1.1; 2.4.1; 2.4.2 |
| EC can take over programming, management and implementation of EC/EDF funds in post-conflict or transition situations | ***ACP***: Art. 4.5 in Annex IV of Cotonou Agreement; Art. 36 of the Council Regulation for 10th EDF  Non ACP: Art 37 of DCI | 2.1.2  2.4.3 | 2.4.1; 3.1.3 |
| Use allocated funds to cover additional costs related to programming, implementation or administration when it takes over partner government/NAO responsibilities in ACP countries | ***ACP***: Art. 36 of the Council Regulation applicable to 10th EDF | 2.1.2; 2.4.3 | |
| Consultation procedure and access to programmable resources (suspension of the cooperation) | ***ACP***: Art 96 and Art 3.4 of annex IV | 2.1.2; 2.4.3 | |
| ***Ad hoc review*** with eventual adjustment of the CSP and MIP including increase in the resource allocation (regional review) or MTR | ***ACP***: Art. 5, (9) Annex IV;  ***Non ACP***: Art. 19.4, Art. 19.5 of the DCI; Art. 7 of the ENPI | 2.1.2  3.1.1 | 2.1.1; 2.4.1; 2.4.2 |

**Comment: Individual links to reference Sections must be inserted**

# 3.2 Identification and formulation of EC development assistance

Figure 8: Identification and Formulation

Identification fiche

Design intervention

* **Action** fiche (s)

Financing Decision

* Annual Action Plan
* *Ad Hoc* Decision
* Special measures

## 3.2.1 Intervention Identification, Formulation and (Annual) Action Programmes in Transition Situations

The identification of specific interventions in transition situations is mostly done by EU Delegations. A standard approach exists and at the end of the identification phase EC headquarters should be briefed on the progress achieved in identifying a planned project or programme. The information to be provided is consolidated in an Identification Fiche (IF), where the relevance and likely feasibility is demonstrated.

At this stage, quality support is provided to orientate further preparatory work during the formulation phase.

Identification Fiches and Action Fiche are presented based on different templates according to the programme implementation modalities (standalone project, Sector budget support or general budget support).

Once the programmes have been identified and formulated, they are submitted as part of an Annual Action Programme. An Annual Action Programme is composed of one or more Action Fiches. The AAP is approved by the college by means of a decision, to which the Action Fiches are attached. The AAP is also accompanied by a Memorandum, explaining the content of the AAP and providing a global and coherent presentation of the actual implementation of the multi-annual programming documents.

Figure 9: From Programming to Implementation



**Action**

**Fiche(s)**

**Financing Agreement**

**Annual Action Programme (AAP)**

**Identification**

**Fiche(s)**

The Annual Action Programmes (AAPs) were introduced by the new financial instruments of EC external assistance for 2007-2013 and by the new Regulations governing the 10th EDF. These documents introduced the principle of a single decision for all projects financed under a country, regional or thematic programme during the same year. This decision is presented to the member states Committee and the college in the form of a Single AAP. The AAP is composed of the Action Fiche for each programme or project and complemented by a memorandum to college and member states. The AAP is subjected to: (i) inter Service consultations, (ii) comitology including the Parliament scrutiny and (iii) adoption of the decision. This decision process is similar for the adoption of the strategic document.

The forward planning, timeframes and comprehensive nature of the AAPs apply to standard design processes but a specific procedure allows for rapid interventions in situations of transition. In situations of urgency, or crisis, programmes may also be presented to the college for the financing decision adoption as an *ad hoc* decision or as a Special Measure (see below). An ***ad hoc* Decision** may be taken on an individual Action Fiche in exceptional circumstances, where the AF does not form part of the AAP but is still within the remit of the NIP. It is also possible to adopt **Special Measures** outside the scope of the planning documents in the event of unforeseen and, as the case maybe, duly justified needs or circumstances. (See Articles 23 DCI, 13 ENPI and 8 of the Regulation on the implementation of the 10th EDF – Appendix 8, 9 & 10)

Figure 10: The decision process and alternatives in crisis situations

See Fig. 11

Identification

Formulation

Identification

Formulation

**Normal Process**

AAP

NIP

**Adoption F**inancing **D**ecision **(FD)**

Identification

ID

Formulation

Approval QSG

Approval QSG

See Fig. 11

Identification

***Ad hoc* decision**

Formulation

NIP

**Adoption F**inancing **D**ecision **(FD)**

Approval QSG

Approval QSG

**(Outside AAP)**

See Fig. 11

Identification

**Special Measures**

Formulation

**Adoption F**inancing **D**ecision **(FD)**

Approval QSG

**(Outside AAP & NIP)**

**Once Decision is taken there is a Flexibility of 20% in amount and time without Derogation**

**Highlights: \***

* A new measure consists in authorising, as far as the applicable legal basis allows, an increase by the responsible authorising officer of up to 20% of the amount approved by the financing decision (AAP) or an extension of up to 20% of the original implementation period, without needing a new College decision.

**N.B.:** *The standard templates used for and in the context of the Annual Action programmes do not contain specific guidance, assistance or suggestions on interventions in situations of crisis.*

**\*** for full references and hyperlinks to the relevant documents see Appendix 18

## 3.2.2 Financing decisions in EC external assistance

This section covers the standard aspects related to financing decisions in EC external assistance and considers aspects relevant to interventions in situations of transition and post-crisis. Once the QSG has approved the documents necessary for either the Annual Action Programmes and DTA by the geographical director, or an *ad hoc* decision taken outside the AAP, or for Special Measures introduced in response to a crisis, the programme, AF or memoranda is processed for the Commission financing decision. The following ways can be used to speed up preparations of interventions in situations of crisis:

* inter service consultation: fast track procedure
* approbation of related committee: submission through written procedure
* scrutiny of the European Parliament (strategy papers and programmes financed under the budget),
* process to SG and submission to commission for decision
* submission FA or Special commitment (contribution agreement, administrative agreement) to director for signature

Figure 11: Approval Process from AAP/*ad hoc* decision/special measures to Financing Decision

***a) Draft* A**nnual **A**ction **P**rogram **(AAP)**

***Relevant committee***

***(Comitology)***

**Adoption F**inancing **D**ecision **(FD)**

***DG Other DGs College***

***(Internal (Inter-Service (Submission***

***b) Ad hoc* decision**

**c) Special measures**

***EP***

***(Scrutiny) for non-EDF***

***Consultation) Consultation) for adoption)***

**Highlights: \***

Each of these steps may be shortened in cases of urgency:

* ***Consultation inter services***: In case of manifest political urgency, the lead department can: (i) use the fast-track procedure in form of an inter-service coordination meeting convened at least 48 hour after the registration or (ii) launch a consultation in CIS-Net with a shorter time limit. Fast Track procedures require prior authorisation of the Secretariat General upon a duly formal request, the presence in the inter-service consultation meeting of the departments most directly concerned by the measure and recorded minutes of the meeting.
* ***Comitology:*** No specific conditions for adoption of strategic documents and multi-annual programmes, however according to urgency, the chairman sets the time limit to enable the Committee to express its opinion on the draft proposed. On the implementing measures, the Committee's opinion can be obtained by written procedure with a response period in a minimum 15 working days. In duly substantiated urgent situations, the documentation necessary for the Committee’s opinion could be sent to the members 5 working days before the date of the meeting (or the response to the written procedure) or in extreme urgency, the chair can depart from the period requirement. The urgency should be duly substantiated in writing.
* ***Parliament scrutiny (for strategic document and budget only):*** If the urgency is duly substantiated, the time for scrutiny could be shortened from the normal period (30 working days) and shall start to run when the draft of measures has been submitted to Parliament in all the official languages.
* ***Decision***: In case of decision taken through written procedure the adoption period can be shortened from at least 5 working days to 3 (accelerated written procedure) or less than 1 day (urgent written procedure).

**\*** for full references and hyperlinks to the relevant documents see Appendix 19.

## 3.2.3 Signature of the Financing Agreement or other (Contribution; Administrative) Agreement

In the framework of the geographical instruments, most of EU external assistance is delivered via a signed Financing Agreement between the EU and a third party. Each project or programme implemented through a Financing Agreement thus offers the EC substantial flexibility in situations of (post) crisis and/or transition. In other situations, such as under Art 96 for EDF countries, contribution agreements and/or administrative agreements are signed directly with the implementing partners.

**Highlights: \***

In situations of crisis or transition, all standard EC Financing Agreements:

* offer the possibility of extending the period of implementation.
* offer the possibility of introducing amendments to a Financing Agreement.
* that are using decentralised cooperation, enable the EC to take over the implementing tasks
* that are using decentralised cooperation, enable the EC to suspend the FA.

**\*** for full references and hyperlinks to the relevant documents see Appendix 20 and

<http://ec.europa.eu/europeaid/work/procedures/financing/financing_agreement/index_en.htm>

Table 4: Summary of identification and formulation flexibility in situations of fragility and transition

|  |  |  |  |
| --- | --- | --- | --- |
|  | | *Financial Regulation[[19]](#footnote-19) (FR)* | *Section/ Appendix* |
| ***Standard Identification – Formulation*** | | Format of the PIF, AF and AAP  <https://intracomm.ec.europa.eu/dgintranet/europeaid/activities/quality_support_groups/tools/identification_fiches_en.ht> | 3.2.1, (App.18) |
| ***F***  ***L***  ***E***  ***X***  ***I***  ***B***  ***I***  ***L***  ***I***  ***T***  ***y*** | ***Ad hoc decision and special measures*** | Art. 22.1 DCI, art. 12.1 ENPI and art 7.1 of Regulation on 10th EDF; art 23 DCI, 13 ENPI, and art. 8 of the Regulation 10th EDF | 2.4.1, (App.8); 2.4.2, (App.9);  2.4.3, (App.10)  3.2.2, (App. 19) |
| ***Inter-Service Consultation (ISC) in fast track*** | Art. 23.5 of the Commission's [rules of procedure C(2010)1200)](https://intracomm.ec.europa.eu/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_C_2010_1200_F_EN_DECISION_DE_LA_COMMISSION.pdf) and annexes detailing implementing rules | 3.2.1, (App.18) |
| ***Comitology by written procedure*** | Art. 35 of the DCI Regulation; art. 26 of the ENPI; art. 17 of the EC Regulation for EIDHR; Art. 8 of the Internal Agreement for 10th EDF | 3.2.1, (App.18) |
| ***Parliament scrutiny (special measures, strategic documents)*** | Art. 35 of the DCI Regulation; art. 26 of the ENPI; art. 17 of the EC Regulation for EIDHR; Art. 8 of the Internal Agreement for 10th EDF; Art. 5a of COUNCIL DECISION of 17 July 2006 amending Decision 1999/468 | 3.2.1, (App.18) |

# 3.3 Implementation phase for programmes financed by the EC budget or EDF

Figure 12: Implementation Phase

Budget Support

Programme Estimates

Contracts:

Service, Works, Supply

Financing Decision

* Annual Action Plan
* *Ad Hoc* Decision
* Special measures

Grants

Financing Agreement

De-centralised Management

Delegation Agreement

(Member States)

Contribution Agreement or Administrative Agreement

(UN, WB)

Contribution Agreement or Administrative Agreement

(UN, WB)

Centralised Management

Contracts:

Service, Works, Supply

Grants

## 3.3.1 Implementation via programme estimates in Transition Situations (EDF Only)

In most cases, the European Commission undertakes the financial implementation of 10th EDF resources by means of decentralised management with the ACP States, in accordance with the conditions set out in the revised Cotonou Agreement. The practical guide for programme estimates provides support to EC delegations and implementing parties whenever such EDF projects and programmes are implemented jointly with ACP governments.

**Highlights: \***

* The EC has the possibility of entering into direct service contracts with third entities in case it takes over implementing responsibilities of a PE from an National Authorising Officer (NAO)
* The rules allow the EC to extend the N+3 rule in case it has taken over implementing powers of a PE from an NAO

\* for full references and hyperlinks to the relevant documents see Appendix 21 and documents on Programme Estimates: <http://ec.europa.eu/europeaid/work/procedures/financing/work_programmes/index_en.htm>

## 3.3.2 Implementation via International Organisations

The Commission has signed the following framework agreements[[20]](#footnote-20) with International Organisations:

* The Financial and Administrative Framework Agreement ("FAFA") with the United Nations,
* The Trust Fund and Co-financing Framework Agreement with the World Bank.

For all contributions to International Organisations covered by a framework agreement (e.g. United Nations agencies that have adhered to FAFA), a standard Contribution Agreement (UN) or Administrative Agreement (WB) shall always be signed. Whereas this model of contract may increase flexibility of EC response, as it provides the possibility for full financing and allows the International Organisation to use its own rules and procedures, the implications of using it should be very carefully considered, and used only when undue delay in the EC response would be otherwise inevitable.

**Highlights:**

* As any other entity, an International Organisation can be awarded a grant by direct agreement in the exceptional cases foreseen in Art. 168 of the Implementing Regulation (i.e. cases of humanitarian and crisis management; a body with a *de jure* or *de facto* monopoly; urgency…).
* However, a direct award of grant to an International Organisation is not advisable when the conditions for joint management prevail, as joint management is more flexible than the grant procedure.

See Chapter 6.9 of the [Practical Guide to Contract Procedures for EC external actions. 2010](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2010_prag_en.pdf)

### 3.3.3 Implementation via EC budget support in Fragile Situations

In the Communication "Towards an EU response to situations of fragility" (COM(2007) 643 final)(Section 2.3.1), the Commission committed itself to "improve its capacity to deliver budget support, taking into account the specific risks and expected benefits in fragile situations. Coordination with the World Bank, the IMF and the African Development Bank will be reinforced".

The EC headquarters have, through the elaboration of a specific annex, established a methodological approach to budget support in fragile situations (post-conflict, post-crisis).

The Commission considers that, in certain circumstances of fragility, political analysis may justify the provision of budget support as the most appropriate aid instrument for:

* avoiding serious deterioration of both the economic situation and the political equilibrium;
* underpinning stabilisation; and,
* strengthening the State's limited financial capacity to ensure at least a minimum provision of its basic functions.

**Highlights: \***

* The preliminary political analysis will contribute to motivate and justify the need for BS in a specific country based on the definitions of crisis, emergency and post-emergency situations[[21]](#footnote-21)
* In post-conflict / post crisis / fragile situations, eligibility to budget support will follow the same guiding principles as for other countries but with a differential interpretation insofar as these countries will also have to: (i) Demonstrate that the "ultra basic elements" on public finance management are in place; (ii) Have access to an IMF programme. In the absence of such a programme, an assessment letter confirming that a stability oriented macro-economic policy is in place will be required from the IMF. (iii) Demonstrate that a national policy or strategy is defined or in the process of being defined (instead of "is in place or under implementation") addressing the challenges of fragility or instability. In this context relevant frameworks agreed with the international community to assist the country in addressing the challenges of instability will be considered.
* Budget support should, however, not be seen as the sole instrument, and should be built into an intervention strategy[[22]](#footnote-22) and accompanied by technical assistance, especially in the area of public finance management. Budget support should be regarded as a part of the EC stabilisation strategy.
* In order to assess progress in the implementation of the budget support programme, an annual review will be carried out to reinforce the dialogue with the authorities, while keeping separate the political dialogue as such (e.g. under article 8 for countries under the Cotonou Agreement)

\* for full references and hyperlinks to the relevant documents see Appendix 22 and:

a) *Aide budgétaire dans les situations de fragilité. Annexe méthodologique aux Lignes directrices pour la programmation et la mise en œuvre de l'aide budgétaire de la CE (Janvier 2007) Eng.?*

**b)** [Guidelines on the Programming, Design & Management of General Budget Support, Aid Delivery Methods, AIDCO DEV RELEX, June 2009](https://intracomm.ec.europa.eu/dgintranet/europeaid/activities/adm/documents/bsguide_ver_jan2007.pdf) **Comment: Intracom and password needed**

## 3.3.4 Declaration of Crisis and flexibility in contract procedures

The 2007 Commission Communication on situations of fragility[[23]](#footnote-23) identified the challenge of working in situations of crisis and the need to enhance the flexibility of the procurement procedures in these situations to allow for more effective delivery of aid. Such flexible implementation could be based on either a Declaration of Crisis, where the Director General will declare the existence of a crisis situation (or the need for emergency/post emergency assistance) in a given country or region, in light of article 168(2) IR (or articles 72 and 73 of the Cotonou Agreement) or by applying an *ad hoc* derogation or requesting a prior approval to the specific article related to the phase of project implementation (See Section 3.3.5).

The Declaration of Crisis (DC) is, in essence, a basket of derogations that enables a much greater degree of flexibility in the initiation and performance of new contracts in accordance with the parameters set by the DG. The DC decision will define its exact geographic scope, namely countr(ies) and/or, if the situation only concerns only a part of a country, region(s) within that country covered by the decision. It will also establish the duration of this situation (usually 1 year), with the possibility to request further revisions/extensions following the same procedure when the deadline for the application of such procedures approaches its end. The decision may also limit the scope of the decision to a specified number of actions or programmes within the country or region in question. It may also contain instructions with regards to the rules of origin and nationality or the need for the Commission to take over the tasks of the Contracting Authority.

The relevant authority is the authorising officer by delegation (i.e. the concerned Director General), who will issue a decision in this regard on the basis of appropriate consultations which will include the programming DG(s) and the responsible Commissioner.

A DC is initiated through a written request to the concerned Director General to declare the existence of a crisis situation (or the need for emergency/post emergency assistance). It may originate from:

* the services of the Commission;
* the country affected by the crisis situation (usually the representative of the national Contracting Authority –also named National Authorising Officer under EDF),
* an international organisation or
* a local or international non State organisation, which may address a request to the Commission.

In practice, the request is usually addressed through the Head of Delegation of the concerned country. In such cases, after consulting the relevant authorities and services and where he/she considers it appropriate, the Head of Delegation shall submit a note to the competent geographical Director in EuropeAid or Enlargement, containing all the necessary factual elements explaining the situation in the given country or region and justifying the existence of the conditions provided for in article 168(2) IR (and/or, for emergency/post-emergency assistance, articles 72 and 73 of the Cotonou Agreement). The note will also define the exact scope of the request (e.g. duration and geographic coverage and the programmes affected by the decision, difficulties/impossibilities for the Contracting Authority of the beneficiary country to carry out its duties). The Director may then decide to transmit the request to the Director General.

In the event that the request is addressed through the concerned Director or directly to the Director General, they may decide to transmit the request to the Head of Delegation (or to the Director in case the request is directly received by the Director General) to prepare the file in accordance with the previous paragraph.

Once a declaration of crisis is made, the instrument regulations, the financial regulations, the implementing rules and the practical guides foresee measures for a flexible implementation. There are three levels:

* procedures defined by the financial regulation and the implementation rules
* specific procedures defined in the financial instrument regulation (such as the Instrument of Stability)
* procedures developed in the guidelines and instruction notes.

The Practical Guide on Contract procedures for EC external relations (version 2008) is the first working tool that explains the contracting procedures applying to all EU external aid contracts financed from the general budget (Budget) and the 10th European Development Fund (EDF). This Guide does not apply to operations implemented in the context of Humanitarian aid or emergency operations carried out by ECHO.

Annex A11 to the Practical Guide specifically applies to situations of crisis, transition and long-term structural instability, providing various exceptions to the general rules, increasing the EC’s flexibility and speed of response; for instance, allowing the award of contracts and grants based on direct negotiated procedures on the basis of only one tender. It should be noted, however, that these procedures apply only to new contracts being procured after a financing decision has been taken by the European Commission.

**Highlights: \***

* Before applying flexible procedures, the existence of a crisis situation in a country or region must be declared by the relevant authority (i.e. the concerned Director General).
* Once a decision declaring a crisis situation (or the need for emergency/post emergency assistance) has been made, grants, service, supplies and works contracts falling under the geographic and temporal scope of such decision may be awarded without using call for tenders or proposals.
* **service contracts**, Contracting Authorities may use the negotiated procedure on the basis of one or several tenders;
* **Supply contracts** may be awarded by negotiated procedure;
* **Works contracts** may be awarded by negotiated procedure;
* **Grants** can be awarded without a call for proposals; and **may be fully financed.**
* The decision declaring a crisis situation or the need for emergency/post emergency assistance does not affect on-going contracts (note that new contracts within programme estimates can use the above-mentioned procedures).
* Monitoring of the flexible procedures used is reported in a specific annex to the External Assistance Management Report (EAMR).

\* for full references and hyperlinks to the relevant documents see Appendix 23 and

<http://www.cc.cec/dgintranet/europeaid/contracts_finances/faq/faq_detail/faq_general_en.htm> and the [*Practical guide to contract procedures for EC external actions (2010)*](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2010_prag_en.pdfhttp:/ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2010_prag_en.pdf), especially the *Guidelines on Contractual Procedures to be used in Cases of Crisis and Emergency and Post Emergency Situations (Annex A11 to the Practical Guide on Contract Procedures)* **Comment: Insert Hyperlink for Annex**

## 3.3.5 Derogations as an alternative to Declaration of Crisis

A derogation is a waiver from a ***specific*** rule applicable to a procedure or contract that may be granted in writing by the Director General or by the person he/she appoints for that purpose. The rules that can be waived are contained in basic Acts regarding nationality and origin, in the practical guide to contract procedures, in the practical guide to programme estimates and derogations to other instruction notes. Some issues do not need a derogation *per se*, but (just) prior approval from the EC headquarters (see Table 5).

The Declaration of Crisis discussed in the previous section, covers a basket of standardised and harmonised derogations that may be used in total or part to save a good deal of time and provide flexibility in procedures in such situations. However, an application, with full justification, for a specific derogation may be made, even when a full crisis declaration is not possible or warranted. Any such deviation from the "normal practice" requires higher permission at various levels (see Appendix 24, Annex 1). Most deviations possible are covered in all the legislation by the terms "Urgent" or "exceptional circumstances", the use of which needs to be justified. Then, a written decision is taken to derogate the rules on the subject requested.

Table 5: Prior approvals other than negotiated procedures

|  |  |  |
| --- | --- | --- |
| ***No.*** | ***Description of the prior approval/Observations*** | ***Competent authority*** |
| *a)* | *Emergency assistance/crisis situation* |  |
| *i) Declaration of emergency assistance/crisis situation (no prior approval needed for specific cases falling under this declaration)* | *Director General* |
| *ii) Adoption of a programme of emergency assistance based on article 72/73 of the Cotonou Agreement (no prior approval needed for specific cases) (EDF only)* | *Commission* |
| *b)* | *De jure or de facto monopoly* | *Director* |

**Highlights: \***

* The Cotonou Agreement and the European Consensus on Development Policy commit the European Commission to implement interventions in situations of transition in a speedy, effective and flexible manner. The Financial instruments, the Financial Regulations, implementing rules and the practical guides foresee such possibilities, including the use of negotiated procedures. However, EC instructions request that prior approval for the use of such procedures is given by EC headquarters and, in particular, by the contractual and financial departments and/or the Director General of Aidco.

\* for full references and hyperlinks to the relevant documents see **Appendix 24** and the*Instruction note of 13/05/2008 (Aidco/G7/JRA D(2008) 9406. Subject: Instruction relating to the derogation system for contract procedures.* ***Comment: Insert Hyperlink***

Table 6: Summary of possible flexibility options and tools in program implementation

|  |  |  |
| --- | --- | --- |
| Implementation | Administrative /Legal Sources | Section/ Appendix |
| Programme Estimates  Contribution Agreement (UN)  Administrative Agreement (WB)  Budget support | ACP only, Cotonou Agreement Article 72  Financial and Administrative Framework Agreement (FAFA) of 29 April 2003  "Trust Fund and Co-financing Framework Agreement" of 8 November 2001  Art. 72 and 73 of the Cotonou Agreement & Art. 168(2) of the Implementing Rules of the EC Budget Financial Regulation. | 2.1.2, 3.3.1 (App. 2 & 21)  3.3.2  3.3.2  3.3.3 (App. 22) |
| ***Use of flexible procedure within a ‘Declaration of Crisis’*** | Declaration of Crisis  Annex A11 to the PRAG referred to the art. 3.2.3.1, 4.2.3.1, 5.2.3.1, 6.3.2, 6.2.9, 2.3.1, 2.3.2) | 3.3.4, (App. 23) 3.3.4, (App. 23)  3.3.4, (App. 23) |
| **Ad hoc *derogation*** | Note of instruction of the DG AIDCO[[24]](#footnote-24) referred notably to the articles. 3.2.3.1, 4.2.3.1, 5.2.3.1, 6.3.2, 6.2.9, 2.3.1, 2.3.2 | 3.3.5 (App. 24) |

Table 7: Summary of useful legislation affecting the implementation of interventions financed under the EC Budget and EDF in transition situations

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Title of the possible Derogation\*** | **(I)**  **Foreseen by declaration of crisis[[25]](#footnote-25)** | **(II)**  **Derogations on a case by case basis [[26]](#footnote-26)** | **Legal and/or administrative references** | |
| **Non-ACP[[27]](#footnote-27):** | **ACP[[28]](#footnote-28):** |
| *Take over programming and implementing powers – Additional resources* | No | Yes |  | * Art 3 (3&4) of Annex IV (Cot. Ag\*\*)***[[29]](#footnote-29)*** * Art 4 of annex IV * Art 35, 36 (FR EDF) |
| Direct Grant contract *outside an annual work programme* | Yes | Yes | * Art 110 (FR) [[30]](#footnote-30) * Art 168.1 a, b, c[[31]](#footnote-31) (IR) * PRAG – para 6.3.2 | * Art 25 annexe IV (Cot. Ag) * Art 106 FR (EDF) * Para 6.3.2 (PRAG) |
| *Retroactive funding for management of humanitarian aid and crisis situations*  *(****NB:*** *Must be built in to Financing Decision)* | No | Yes | * Art 112[[32]](#footnote-32) (FR), Art. 171 (IR) * Para. 6.2.8 (PRAG) | * Art 19 of annex IV (Cot. Ag) * Art 108 FR (EDF) * Para. 6.2.8 (PRAG) |
| *Financing in full for grant contracts* | Yes | Yes | * Art. 169 (FR) * Art. 253 (IR) * Para 6.2.9 (PRAG) | * Art. 25 of annex IV * Art. 109 FR (EDF) * Para. 6.2.9 (PRAG) |

***Table cont’d***

**Table 7 (Cont’d): Summary of Useful Legislation affecting the implementation of interventions financed under the EC Budget and EDF in transition situations**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Title of the possible Derogation\*** | **(I)**  **Foreseen by declaration of crisis** | **(II)**  **Derogations on a case by case basis[[33]](#footnote-33)** | **Legal and/or administrative references** | |
| **Non-ACP[[34]](#footnote-34):** | **ACP[[35]](#footnote-35):** |
| Procurement through a negotiated procedure *shortening the timing for contract signature* | Yes | Yes | * Art 91, Art 167[[36]](#footnote-36) (FR) * Art 126 (no prior publication), Art 142, Art. 158, Art 242[[37]](#footnote-37), Art. 244[[38]](#footnote-38), Art. 246[[39]](#footnote-39) (IR) * Para 3.2.3.1[[40]](#footnote-40), 4.2.4.1[[41]](#footnote-41), 5.2.4.1[[42]](#footnote-42) (PRAG) | * Art. 25 of annex IV (Cot. Ag) * Art 91, 94 FR (EDF) * Para 3.2.3.1[[43]](#footnote-43), 4.2.4.1[[44]](#footnote-44), 5.2.4.1[[45]](#footnote-45) (PRAG) |

\* Only for Derogations on a case by case basis. For derogations foreseen in a Declaration of Crisis (DC) see the Legal and/or administrative dispositions mentioned in Section.3.3.4 and Appendix.23 (Art 168.2 (IR) and Annex A11a (PRAG)) related to DC

\*\* Cot. Ag - Cotonou Agreement; (FR) - Financial Regulations; (IR) – Implementing Rules – for the Budget unless otherwise stated.

## Appendix 1: Flexibility Provisions within the ACP-EU Cotonou Partnership Agreement

Introduction

The ACP-EU Cotonou Partnership Agreement (CPA) is an international agreement that provides an integrated, comprehensive, legal and political framework for EC interventions in 79 African, Caribbean and Pacific (ACP) countries. The CPA for

The Agreement, especially Annex IV, directs the programming and implementation of a large part of the resources used to finance EC interventions in fragile situations in the ACP countries. It includes specific measures for use in structural, violent and/or man-made/natural (post) crises/emergencies and provides a set of procedures and rules that ensures flexibility in EC programming and implementation in times of crisis or general fragility.

**Highlights**

The 2010 revision of the ACP-EU Cotonou Agreement reinforces the various possibilities for interventions in situations of transition. Some of the important aspects are:

* Reinforced language which brings peace, security and development together and enables more integrated and comprehensive EC interventions in situations of man-made and violent crisis situations. There is now an explicit commitment to address situations of fragility by encompassing all available political, security and development tools and instruments including the use of political dialogue and mobilisation of political will (the reference to ‘political will’ is new in this context).
* The definition of a crisis in Art. 72 (in line with Art. 168 of the EC implementing rules[[46]](#footnote-46)) provides ample scope for flexibility by outlining circumstances where post-emergency aid could be allocated. This includes long-term structural instability, threats to individuals, ‘extraordinary circumstances having comparable effects such as climate change, access to energy, extreme poverty’.
* While the principle of ‘independence’ in EC humanitarian aid has been lost within the Lisbon Treaty, the CPA states that independence is one of the key principles for humanitarian, emergency and post-emergency assistance (Art. 72.4)
* The revised Cotonou introduces substantial reinforcement on language related to crisis-prevention, early warning and disaster preparedness, disaster risk reduction (Art. 11, 60, 72, 73)
* The definition given to ‘post emergency action’ emphasises rehabilitation, LRRD and funding from the overall development funding pool. Emphasis is given to socio-economic reintegration, removing causes of the crisis and strengthening institutions and ownership of local and national actors.(Art. 72a.3)
* The EC (and ACP) has the obligation to undertake speedy action based on procedures permitting rapidity, flexibility and effectiveness in the implementation of humanitarian, emergency and post-emergency aid (Art. 73)
* The EC is required to allocate funds for unforeseen needs and ‘humanitarian, emergency and post-emergency assistance’ within national, regional and continental envelopes. (Annex IV Art. 3 & 9)
* Very importantly, the CPA provides certain possibilities for providing EDF funding and implementing projects in cases of Art.96 or other exceptional circumstances which otherwise prevent an ACP country’s access to ‘normal’ programmable resources. (Annex IV Art.3.4)
* The EC has the possibility of taking over responsibilities for programming and implementation of EDF/EC resources allocated to an ACP State in situations of crisis or post-crisis (including chronic instability). Furthermore, the CPA allows the EC to use the resources for basically everything needed (Annex IV Art. 4.5)
* *Ad hoc* reviews of the programming can be required by both the EC and the partner country (or regional organisation). Moreover, and more importantly, the revised CPA now explicitly allows for a change of focal/non-focal sectors following such ad hoc reviews (Annex IV Art. 5 & 9)

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[*Cotonou Agreement ‘Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part’. Signed in Cotonou, 23 June 2000 & revised in Luxembourg, 25 June 2005 and 19 March* ***2009.***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf)

Extracts related to EC interventions in situations of Transition

***PART 1 GENERAL PROVISIONS***

***TITLE II THE POLITICAL DIMENSION***

***Article*** [***11***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf) ***- Peace building policies, conflict prevention and resolution, response to situations of fragility***

1. *The Parties acknowledge that without development and poverty reduction there will be no sustainable peace and security, and that without peace and security there can be no sustainable development. The Parties shall pursue an active, comprehensive and integrated policy of peace building and conflict prevention and resolution, and human security, and shall address situations of fragility within the framework of the partnership. This policy shall be based on the principle of ownership and shall in particular focus on building national, regional and continental capacities, and on preventing violent conflicts at an early stage by addressing their root-causes, including poverty, in a targeted manner, and with an adequate combination of all available instruments. .......*

*4. In order to address situations of fragility in a strategic and effective manner, the Parties shall share information and facilitate preventive responses combining diplomatic, security and development cooperation tools in a coherent way. They shall agree on the best way to strengthen capabilities of States to fulfil their core functions and to stimulate political will for reform while respecting the principle of ownership. In situations of fragility, political dialogue is especially important and shall be further developed and reinforced.*

*6. In post conflict situations, the Parties shall take all suitable action to stabilise the situation during the transition in order to facilitate the return to a nonviolent, stable and democratic situation. The Parties shall ensure the creation of the necessary links between emergency measures, rehabilitation and development cooperation.*

***PART 4 DEVELOPMENT FINANCE COOPERATION***

***TITLE I GENERAL PROVISIONS***

***Chapter 1 Objectives, Principles, Guidelines and Eligibility***

***Article*** [***60***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf) ***- Scope of financing***

*The scope of financing may include,* inter alia*, depending on the needs and the types of operation considered most appropriate, support to:*

1. *humanitarian and emergency assistance including assistance to refugees and displaced persons, interventions linking short-term relief and rehabilitation with long-term development in crisis or post-crisis situations, and disaster preparedness.*

***Article*** [***72***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf) ***- General Principles***

1. *Humanitarian, emergency and post-emergency assistance shall be provided in situations of crisis. Humanitarian and emergency assistance shall aim to save and preserve life and to prevent and relieve human suffering wherever the need arises. Post-emergency assistance shall aim at rehabilitation and linking the short-term relief with longer term development programmes.*
2. *Situations of crisis, including long-term structural instability or fragility are situations posing a threat to law and order or to the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country. Situations of crisis may also result from natural disasters, man-made crises such as wars and other conflicts or extraordinary circumstances having comparable effects related* inter alia *to climate change, environmental degradation, access to energy and natural resources, or extreme poverty.*
3. *The humanitarian, emergency and post emergency assistance shall be maintained for as long as necessary to deal with the needs resulting from these situations for the victims, thereby linking relief, rehabilitation and development.*
4. *The humanitarian assistance shall be granted exclusively according to the needs and interests of the victims of the crisis situation and in line with the principles of international humanitarian law and with respect to humanity, neutrality, impartiality and independence. In particular, there shall be no discrimination between victims on grounds of race, ethnic origin, religion, gender, age, nationality or political affiliation and free access to and protection of victims shall be guaranteed as well as the security of humanitarian personnel and equipment.*
5. *The humanitarian, emergency and post-emergency assistance shall be financed under the multiannual financial framework for cooperation under this Agreement, where such assistance cannot be financed from the EU Budget. Humanitarian, emergency and post-emergency assistance shall be implemented in complementarity and co-ordination with the Member States' efforts and in accordance with best practice in aid effectiveness.*

***Article*** [***72a***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf) ***- Objective***

1. *“Humanitarian and emergency assistance shall aim to:*
2. *safeguard human lives in crises and immediate post crisis situations;*
3. *contribute to the financing and delivery of humanitarian aid and to the direct access to it of its intended beneficiaries by all logistical means available;*
4. *carry out short-term rehabilitation and reconstruction to enable the victims to benefit from a minimum of socio-economic integration and, as soon as possible, create the conditions for a resumption of development on the basis of long term objectives set by the ACP countries and regions concerned;*
5. *address the needs arising from the displacement of people (refugees, displaced persons and returnees) following natural or man-made disasters so as to meet, for as long as necessary, all the needs of refugees and displaced persons (wherever they may be) and facilitate action for their voluntary repatriation and re-integration in their country of origin****;*** *and*
6. *assist the ACP State or region in setting up short term disaster prevention and preparedness mechanisms, including for prediction and early warning, with a view to reducing the consequences of disasters.*
7. *Assistance**may be granted to ACP States or regions taking in refugees or returnees to meet acute needs not covered by emergency assistance.*
8. *Post emergency action shall aim at physical and social rehabilitation consequent to the results of the crisis concerned and may be undertaken to link the short term relief and rehabilitation with the relevant longer term development programmes funded from the national, regional indicative programmes or the intra-ACP programme. Such actions must be necessary for the transition from the emergency phase to the development phase, promoting the socio-economic reintegration of the parts of the population affected, removing as far as possible the causes of the crisis and strengthening institutions and the ownership by local and national actors of their role in formulating a sustainable development policy for the ACP country concerned.*
9. *If appropriate, short-term disaster prevention and preparedness mechanisms referred to in paragraph 1(e) will be coordinated with other disaster prevention and preparedness mechanisms in place.*

*The development and strengthening of national, regional and all-ACP disaster risk reduction and management mechanisms shall assist ACP States to build their resilience to the impact of disasters. All related activities may be pursued in cooperation with regional and international organisations and programmes that have a proven track record in disaster risk reduction.*

***Article*** [***73***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf) ***- Implementation***

1. *Assistance operations shall be undertaken either at the request of the ACP country or region affected by the crisis situation, or at the initiative of the Commission, or on advice of international organisations or local or international non State organisations.*
2. *The Community shall take adequate steps to facilitate speedy action, which is required to meet the immediate needs for which the assistance is needed. The assistance shall be administered and implemented under procedures permitting operations that are rapid, flexible and effective.*
3. *Underlining the developmental nature of the assistance granted in accordance with this chapter, assistance may be used exceptionally together with the indicative programme at the request of the State or region concerned.*

***Article*** [***96***](http://ec.europa.eu/development/icenter/repository/second_revision_cotonou_agreement_20100311.pdf) ***- Essential Elements: consultation procedure and appropriate measures as regards human rights, democratic principles and the rule of law***

***2.a)*** *If, despite the political dialogue on the essential elements as provided for under Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annexe VII. ....*

***... If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them no longer prevail.***

***2.c)*** *The “appropriate measures” referred to in this Article are measures taken in accordance with international law, and proportional to the violation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. ......*

***Comment: All the links in this Appendix take the reader to the 2010 revision text – NOT to the consolidated Cotonou Agreement – None of the individual specific links actually take the reader to the relevant article but to the start of the document – they are all therefore the same – As previous note, the last ref to Article 96 is not included in the revision note and the text comes from the Luxembourg revision of 25 June 2005.***

Annex IV: Implementation and Management Procedures

***Chapter 1 Programming (National)***

***Article 1***

*………..*

*Programming for this purpose shall mean:*

1. *a clear indication from the Community of the indicative programmable financial allocation from which the country, region or intra-ACP cooperation may benefit during the period covered by the multi-annual financial framework of cooperation under this Agreement as well as any other relevant information, including a possible reserve for unforeseen needs;****’[[47]](#footnote-47)***

***Article 3 - Resource allocation***

1. *The indicative resource allocation among ACP countries shall be based on standard, objective and transparent needs and performance criteria. In this context:*
2. *Needs shall be assessed on the basis of criteria pertaining to* per capita *income, population size, social indicators and level of indebtedness, vulnerability to exogenous shocks. Special treatment shall be accorded to the least developed ACP States, and the vulnerability of island and landlocked States shall duly be taken into account. In addition, account shall be taken of the particular difficulties of countries dealing with the aftermath of conflict or natural disaster; and*
3. *The allocated resources shall comprise:*

***b)*** *an allocation to cover unforeseen needs such as those defined in Articles 66, 68 and 72-73, accessible under the conditions set out in these Articles, where such support cannot be financed from the EU budget.*

1. *Provision will be made on the basis of the reserve for unforeseen needs for those countries, which, due to exceptional circumstances, cannot access normal programmable resources.*
2. *Without prejudice to Article 5(7) concerning Reviews, the Community may, in order to take account of new needs or exceptional performance, increase a country’s programmable allocation or its allocation for unforeseen needs:*
3. *new needs may result from exceptional circumstances and/or unforeseen such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);*

***Article 4 - Preparation and adoption of the Indicative Programme***

1. *When an ACP State faces a crisis situation as the result of a war or other conflict, or exceptional circumstances with a comparable effect, preventing the National Authorising Officer from carrying out his duty, the Commission may itself manage the resources allocated to the State in question in accordance with Article 3 and use it for special support. Special support may concern peace building policies, conflict management and resolution, post-conflict support, including institution-building, economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. The Commission and the ACP State concerned shall revert to normal implementation and normal management procedures as soon as the authorities responsible for managing cooperation are able to do so once more.*

***Article 5 - Review process***

1. *In exceptional circumstances as referred to in Article 3(4), in order to take into account new needs or exceptional performance, an ad hoc review can be carried out on the demand of either Party*
2. *……..A change in the CSP may also be decided as a result of the ad hoc review process foreseen under paragraph 2. …….*
3. *…….Following an ad hoc review as foreseen under paragraph 2, the Commission may, on behalf of the Community, also increase the resource allocation in the light of new needs or exceptional performance of the ACP State concerned, as defined in Article 3(4).*

***Chapter 2 Programming and Preparation (Regional)***

***Article 9 - Resource allocation***

1. *‘The allocated resources shall comprise:*
2. *an allocation for each ACP region to cover unforeseen needs such as those defined in Articles 72-73, where given the cross-border nature and/or scope of the unforeseen need, such support can more effectively be provided at regional level. These funds shall be accessible under the conditions set out in Articles 72-73, where such support cannot be financed from the EU budget. Complementarity between interventions provided under this allocation and possible interventions at country level shall be ensured.*
3. *……..A regional allocation for unforeseen needs may be mobilised to the benefit of the region concerned and of ACP countries outside the region where the nature of the unforeseen need requires their involvement and the centre of gravity of the projects and programmes envisaged remains on the region.*
4. *Without prejudice to Article 11 concerning reviews, the Community may, in order to take account of new needs or exceptional performance, increase a region’s programmable allocation or its allocation for unforeseen needs:*
5. *new needs are needs resulting from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2 (b);”*

***Article 11 - Review process***

1. *In exceptional circumstances as referred to in Article 9(4), in order to take into account new needs or exceptional performance, the review can be carried out on the demand of either Party. As a result of an ad hoc review, a change in the RSP may be decided by both Parties and/or the resource allocation increased by the Commission on behalf of the Community. ……*

***Chapter 3 Appraisal and financing***

***Article 19 - Retroactive Financing***

1. *In order to ensure early project start-up, avoid gaps between sequential projects and prevent delays, the ACP States or the relevant organisation or body at regional or intra-ACP level may, on completion of project appraisal and before the financing decision is taken, pre-finance activities linked to the start-up of programmes, preliminary and seasonal work, orders for equipment with long delivery lead times as well as some on-going operations. Such expenditure shall satisfy the procedures provided for in this Agreement.*
2. *Any expenditure referred to in paragraph 1 shall be mentioned in the financing proposal and shall be without prejudice to the financing decision taken by the Commission on behalf of the Community.*
3. *Expenditure made by the ACP State or the relevant organisation or body at regional or intra-ACP level under this Article shall be retroactively financed under the programme or project, once the financing agreement is signed.*

## Appendix 2: The European Consensus on Humanitarian Assistance

**Introduction**

The Joint Declaration establishing the European Consensus on Humanitarian Aid sets out the EU policy framework and the objectives of humanitarian assistance in both the EU member states (part I) and the European Community (Part II). The jointly approved declaration offers substantial guidance on interventions in situations of transition/fragility and explicitly refers to the linking of relief, rehabilitation and development.

Several articles (including Articles 22 and 30) mention the importance of effective, speedy interventions in situations of transition including the necessity to ensure coordination, complementarity and coherence across the various EC and EU interventions. Articles 77 and 78 specifically mention the importance of linking relief, rehabilitation and development. It is notable that Article 78 highlights the EC’s comparative advantages in delivering humanitarian assistance on linking relief, rehabilitation and development, both at the Community and individual EU member states levels.

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| **Highlights**   * EU humanitarian aid is delivered in situations where other instruments related to crisis management, civil protection and consular assistance may also come into play. Hence, **the EU is committed to ensure coherence and complementarity in its response to crises, making the most effective use of the various instruments mobilised**. * **EU humanitarian aid, should be closely linked to development cooperation as expressed in ‘the European Consensus on Development’** * Achieving better linkage between Relief, Rehabilitation and Development (LRRD) requires humanitarian and development actors to **coordinate from the earliest phases of a crisis response and to act in parallel with a view to ensuring a smooth transition. It necessitates mutual awareness of the different modalities, instruments and** [**approaches on the part of all aid actors, and flexible and innovative transition strategies**.](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF) |

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[*Joint Statement on the European Consensus on Humanitarian Assistance by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission (2008/C 25/01). Published the 30.1.2008 in the Official Journal of the European Union*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)*.*

Extracts from the European Consensus on Humanitarian Assistance related to EC interventions in situations of fragility and transition

***PART ONE — THE EU VISION OF HUMANITARIAN AID***

1. ***Common Principles and Good Practice***

***2.4 Relationship to other policies***

***Paragraph*** [***22***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)***.***

*The principles that apply to humanitarian aid are specific and distinct from other forms of aid. EU humanitarian aid, including early recovery, should take long-term development objectives into account where possible, and is closely linked to development cooperation whose principles and practices are outlined in ‘the European Consensus on Development’. EU humanitarian aid is delivered in* *situations where other instruments related to crisis management, civil protection and consular assistance may also come into play. Hence, the EU is committed to ensure coherence and complementarity in its response to crises, making the most effective use of the various instruments mobilised.*

* 1. ***Coordination, Coherence and Complementarity***

***Paragraph*** [***30***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*Without prejudice to the humanitarian principles of neutrality and independence, the EU commits to ensuring policy coherence, complementarity and effectiveness by using its influence and the full range of tools at its disposal to address the root causes of humanitarian crises. In particular, humanitarian aid and development cooperation, as well as the various instruments available to implement stability measures, will be used in a coherent and complementary fashion especially in transitional contexts and situations of fragility, in order to use the full potential of short- and long-term aid and cooperation.*

* 1. ***Quality, effectiveness and accountability***

***Paragraph*** [**40**](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*Addressing the issues of speed and quality are both critical in delivering humanitarian aid effectively. As donors we have the responsibility to ensure that aid delivered represents the best available option and is suitable for the purpose it is intended. Therefore, humanitarian action should follow a set of internationally recognised standards and principles. These have been encapsulated in the ‘Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations in Disaster Relief’ (1) and broadly incorporated in the ‘Humanitarian Charter’. Widely recognised minimum standards in Disaster Response have been set out in general and per sector including through the Sphere Project (2). These principles for aid provision correlate to the internationally accepted OECD-DAC criteria for the evaluation of Humanitarian Aid (3). The EU also notes positively the work on International Disaster Response Laws, Rules and Principles (IDRL).*

* 1. ***Diversity and quality in partnership***

***Paragraph*** [**50**](link:%20http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*The EU underlines its intrinsic support for a plurality of implementing Partners — the UN, the Red Cross/Crescent Movement and the NGOs — and acknowledges that each has comparative advantages in responding to certain situations or circumstances. However, the EU also recognises the need for close coordination, coherence and complementarity between implementing Partners on the ground.*

1. ***The Aid Continuum/Contiguum***

***5.2 Transition and Early Recovery and ensuring the link to Development Aid***

***Paragraph*** [**77**](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*Recovery and reconstruction in the aftermath of a disaster is a major challenge, which requires structural and development action beyond immediate emergency aid. Thus it is important to ensure that humanitarian, development and other relevant aid instruments work better together, in particular in situations of fragility and where communities are seeking to recover from the effects of crisis. Achieving better linkage between Relief, Rehabilitation and Development (LRRD) requires humanitarian and development actors to coordinate from the earliest phases of a crisis response and to act in parallel with a view to ensuring a smooth transition. It necessitates mutual awareness of the different modalities, instruments and approaches on the part of all aid actors, and flexible and innovative transition strategies. At an international level the ‘early recovery cluster’ is looking specifically at addressing the link between relief and development aid at the earliest stages of disaster response.*

***Paragraph*** [***78***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF) (on LRRD)

*The EU will work together on advancing practical approaches to LRRD. These approaches should be based on experiences and lessons learnt and address improved cooperation between humanitarian and development agencies and other aid actors, including in the international community, particularly at field level and in situations of fragility or complex emergencies. In transitional environments, there remains a need to ensure synergies between humanitarian aid and development aid whilst respecting their distinct objectives, principles and approaches.*

***PART TWO – THE EUROPEAN COMMUNITY AND HUMANITARIAN AID***

1. ***Comparative Advantage***

***Paragraph*** [***82***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*On behalf of the Community, the Commission provides added value through the following roles:*

***Paragraph*** [***83***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*First, a global presence. Implementation of Community humanitarian aid is supported through a network of field experts located world-wide, working out of field offices, including Regional Support Offices. This makes the Community as a donor one of only a few with extensive field-level specialist humanitarian presence. In addition the Commission is able to draw upon the support of its extensive network of Delegations. This allows the Community to do its aid allocation function efficiently based on presence, expertise (notably in assessing need), and rapidity of response, and to assist partners actively on the ground in improving the overall humanitarian response. Furthermore, the Community is well positioned to rapidly complement as required EU Member States' bilateral contributions in response to crisis.*

***Paragraph*** [***84***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*Second, with the support of Member States, ensuring coherence in Community policies, in particular at the meeting points between Community policies in the area of humanitarian aid, development, food security, public health and human rights, including through Linking Relief, Rehabilitation and Development (LRRD), disaster risk reduction and preparedness strategies.*

1. **Putting good donorship into practice**

***Paragraph*** [***94***](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:025:0001:0012:EN:PDF)

*Financial accountability on the Community budget is stringent at the EU level. Reporting requirements and procedures for the humanitarian aid managed by the Commission are therefore currently amongst the most thorough of any major official donor. This is a clear requirement in terms of accountability to European citizens that is carefully monitored by the institutions and reflected by the fact that all Community financing decisions are made public. The Community undertakes to continue efforts to streamline and simplify its procedures for humanitarian aid in order to reduce the administrative burden on implementing organisations within the framework of the applicable rules. Harmonisation of reporting by the Community in the humanitarian sphere will take place in accordance with the applicable provisions on general financial accountability and control.*

***Comment: All the links in this Appendix take the reader to the start of the “Consensus” - None of the individual specific links actually take the reader to the relevant article but to the start of the document – they are all therefore the same –***

## Appendix 3: The European Consensus on Development Policy

**Introduction**

The Joint Declaration on EU Development Policy sets out the EU policy framework and the objectives of development cooperation in both the EU member states (part I) and, more specifically, the European Community (Part II).

*The first Part of the European consensus on development sets out common objectives and principles for development cooperation. It reaffirms EU commitment to poverty eradication, ownership, partnership, delivering more and better aid and promoting policy coherence for development. It will guide Community and Member State development cooperation activities in all developing countries in a spirit of complementarity.*

*The second part of the European Consensus on Development sets out the renewed European Community Development Policy, which implements the European vision on development set out in the first part for the resources entrusted to the Community, in accordance with the Treaty. It clarifies the Community's role and added value and how the objectives, principles, values, policy coherence for development and commitments defined in this common vision will be made operational at Community level. It identifies priorities which will be reflected in effective and coherent development cooperation programmes at the level of countries and regions. It will guide the planning and implementation of the development assistance component of all Community instruments and cooperation strategies with third countries. It shall be taken into account in other Community policies that affect developing countries, to ensure policy coherence for development.*

The declaration is comparable to the other EU policy frameworks, in that it establishes an enabling policy framework, which contains political commitments and further mandates the EC to establish specific sets of structures, procedures and modalities that allow effective response through EU ‘development’ interventions. It offers substantial guidance for such interventions in situations of transition/fragility; including the linking of relief, rehabilitation and development and several other commitments (see paragraph 121) to ‘adjust’ the general ‘system’ so as increase speed and flexibility. That said, the main focus is on coordination, complementarity and coherence with other internal and external EU policies/measures.

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| **Highlights**   * In transition situations, the EU will promote linkages between emergency aid, rehabilitation and long-term development. In a **post-crisis situation, development will be guided by integrated transition strategies**, aiming at rebuilding institutional capacities, essential infrastructure and social services, increasing food security and providing sustainable solutions for refugees, displaced persons and the general security of citizens. * The **Community will make progress in defining a set of guidelines for intervention in countries in crisis or as they emerge from a crisis, by ensuring that it adjusts both its procedures for allocation of resources and its modalities of intervention, with the concern of being able to respond rapidly and flexibly**, with a varied range of interventions.’ |

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*Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: ‘The European Consensus’ (2006/C 46/01). Published the 24.2.2006 in the Official Journal of the European Union.* ***Comment: Needs hyper link***

Extracts from the European Consensus on Development Cooperation related to EC interventions in fragile States and transition situations

**PART I: THE EU VISION OF DEVELOPMENT**

***4. Common principles***

***4.5 Addressing state fragility***

***Paragraph 21:*** *In transition situations, the EU will promote linkages between emergency aid, rehabilitation and long-term development. In a post-crisis situation development will be guided by integrated transition strategies, aiming at rebuilding institutional capacities, essential infrastructure and social services, increasing food security and providing sustainable solutions for refugees, displaced persons and the general security of citizens. EU action will take place in the framework of multilateral efforts including the UN Peace Building Commission, and will aim to re-establish the principles of ownership and partnership.*

***5. Delivering more and better aid***

***5.3 Coordination and complementarity***

***Paragraph 33:*** *The EU will capitalise on new Member States' experience (such as transition management) and help strengthen the role of these countries as new donors.*

***PART II: THE EUROPEAN COMMUNITY DEVELOPMENT POLICY***

***2. A differentiated approach depending on contexts and needs***

***2.2 Objective and transparent criteria for resource allocation***

***Paragraph 64:*** *Within global geographic and thematic allocations, the use of standard, objective and transparent resource allocation criteria based on needs and performance will guide the allocation of resources and a review of their subsequent use. The particular difficulties faced by countries in crisis, in conflict or if disaster-prone will be borne in mind, alongside the specificity of the different programmes.*

***3. Responding to the needs of partner countries***

***3.2 Areas for Community Action - Conflict prevention and fragile states***

***Paragraph 89:*** *The Community, within the respective competences of its institutions, will develop a comprehensive prevention approach to state fragility, conflict, natural disasters and other types of crises. In this, the Community will assist partner countries' and regional organizations' efforts to strengthen early warning systems and democratic governance and institutional capacity building. The Community will also, in close cooperation and coordination with existing structures of the Council, improve its own ability to recognize early signs of state fragility through improved joint analysis, and joint monitoring and assessments of difficult, fragile and failing states with other donors. It will actively implement the OECD principles for good international engagement in fragile states in all programming.*

***Paragraph 90:*** *In difficult partnerships, fragile or failing states the Community's immediate priorities will be to deliver basic services and address needs, through collaboration with civil society and UN organisations. The long-term vision for Community engagement is to increase ownership and continue to build legitimate, effective and resilient state institutions and an active and organised civil society, in partnership with the country concerned.*

1. ***A range of modalities based on needs and performance***

***Paragraph 121:*** *The Community will make progress in defining a set of guidelines for intervention in countries in crisis or as they emerge from a crisis, by ensuring that it adjusts both its procedures for allocation of resources and its modalities of intervention, with the concern to be able to respond rapidly and flexibly, with a varied range of interventions.*

## Appendix 4: The EU Response to Situations of Fragility

Introduction

The 2007 EC Communication ‘Towards an EU response to situations of fragility’ provides a recent and dedicated policy framework for EC interventions in situations of transition. Together with the related EU Council conclusions and the Communication on Security and Development, it provides a policy framework within which, most EC interventions in situations of Fragility should be identified, formulated and implemented.[[48]](#footnote-48)

The Council conclusions on an EU Response to situations of fragility are the EU member states reply to the proposals outlined in the EC communication on Fragility. They give political approval of the main aspects of the EC policy and underline the importance of an integrated whole-of-EU approach to situations of transition. Furthermore, the conclusions also apply to bilateral interventions by EU member states in these situations.

The Council conclusions on Security and Development provide further input and decision-making space for EC services intervening in situations of transition from fragility to stability. They pay particular attention to the link between security and development, ‘the security-development nexus’, and on the tools to trigger and better manage synergies between various EU efforts. The conclusions also apply to bilateral interventions by EU member states in situations of transition.

The European Action Plan (Draft, September 2010) has been produced in response to the communications and Council deliberations above. The Action Plan covers four areas:

1. steps to improve the coordinated, coherent and holistic EU approach (‘Whole of the EU’) by the relevant EU actors – including from different policy communities (in particular security, development, humanitarian and diplomatic);
2. a focus on building peaceful, legitimate and inclusive states as the central objective for external intervention;
3. the challenge of making EU development assistance and support to reaching the MDGs more effective, responsive and adapted to the challenges of fragility and conflict; and
4. a deepening of international partnerships, both with global, regional and sub-regional organisations.

**Highlights**

1. **EC 2007 Communication of situations of fragility**

* The communication requires the EC services to ensure that assessments of needs and priorities can be followed up by appropriate instruments allowing for timely and effective implementation. In other words, the EC should establish financial instruments and procedures that enable it to respond effectively to changing conditions in situations of fragility and transition.
* Better incorporation of LRRD analysis/assessment in CSPs/RSPs.
* Governance, institutional development and security have to be better integrated in the strategic (LRRD) framework in situations of transition.
* Better use of EC/EU political dialogue with third countries and incorporation of LRRD measures in high level diplomacy.
* Funding mechanisms, such as trust funds managed by international agencies that are often used in this context, are not always able to support the implementation of reconstruction and rehabilitation programmes as rapidly as expected. Although they could, in principle, help ensure donor coordination and coherence, they should not be used as a substitute for local ownership and the EU's own presence.
* Efforts are still needed to both update the methods of implementation of the LRRD strategic framework, with due integration of governance and security concerns, as well as to adapt procedures and financial mechanisms to situations where flexibility is crucial.

**Highlights**

1. **Council conclusions on an EU Response to situations of fragility**

* Fragility refers to weak or failing structures and to situations where the social contract is broken due to the State's incapacity or unwillingness to deal with its basic functions, meet its obligations and responsibilities regarding the rule of law, protection of human rights and fundamental freedoms, security and safety of its population, poverty reduction, service delivery, the transparent and equitable management of resources and access to power.
* Endorses, on behalf of the EU, the Principles for Good International Engagement in Fragile States and Situations, emphasizes the need for a "whole-of-government" approach.
* The EU should make more effective use of the full range of existing EU policy tools and external action instruments to address, in a coherent and timely manner, situations of fragility in partner countries. The EU response should therefore combine political, diplomatic, development, security and humanitarian instruments.
* In situations of fragility, political dialogue is especially important and should be further developed and reinforced. Where no such dialogue exists, confidence building measures should be considered.
* The Council also believes that a dialogue should be pursued with civil society and local authorities.
* Strengthen the role of Country Strategy Papers (CSPs), in line with national development strategies, as the preferred framework to prevent and address fragility
* Applying specific (more needs-based) country and regional allocation criteria, and ensuring that unforeseen needs can be met adequately.
* Integrating fragility in the review process of the Governance Initiative for ACP countries and developing similar tools for DCI countries.
* Making financial tools and procedures more flexible and capable to provide quick responses.
* Enhance the “Linking Relief, Rehabilitation and Development” (LRRD) strategic framework, in particular by integrating democratic governance and institutional developments.
* The EU as a whole needs to ensure that its support to partners' efforts in addressing fragility is more responsive, quicker and more flexible. The approach should be tailor-made, articulated and holistic, combining diplomatic action, humanitarian aid, development cooperation and security.

1. **Council Conclusions on Security and Development**

* The Council… invites the Community, within the respective competences of its Institutions**, to further enlarge and improve channels of dialogue and cooperation with civil society, NGOs, local authorities and the private sector. (Art.5).**
* **systematically carrying out security/conflict sensitive assessments and conflict analysis**, where appropriate, in the preparation of country and regional strategies and programmes.

1. **Draft European Action Plan**

* In situations of crisis or emerging crisis where there is the need and political will to use crisis management tools, EU-institutions and Member States need to ensure a coordinated, coherent and mutually reinforcing deployment of actions. Even if situations of urgency require rapid responses, the decision to have recourse to exceptional EU assistance measures and/or to launch CSDP activities needs to build on the existing long-term support.
* In certain circumstances of fragility, the provision of Budget Support (BS) may be the most appropriate aid instrument for avoiding serious deterioration of both the economic situation and the political equilibrium, underpinning stabilisation, and strengthening the State's limited financial capacity to ensure at least a minimum provision of its basic functions.
* EU Action Plan for situations of fragility and conflict – follow up to the 2007 Council Conclusions on fragile situations and on security and development.JOINT PAPER presented by the Commission and the High Representative for Foreign Affairs and Security Policy Brussels, xxx SEC(2010) yyy. Draft (28 September 2010) **Comment: Hyperlink Needed**

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**A.** [*EC Communication ‘Towards an EU Response to Situations of Fragility’ - engaging in difficult environments for sustainable development, stability and peace (Brussels, 25.10.2007, COM(2007) 643 final {SEC(2007) 1417})*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0643:FIN:EN:PDF)

**Extracts related to EC Response in situations of fragility and transition to a state of resilience**

***4.5 Post Crisis: Linking Relief, Rehabilitation and Development***

*Consistency in the overall response, the presence of adequate, experienced and well coordinated human resources and sustained funding are of fundamental importance. Relief, crisis management, reconstruction assistance and long-term development cooperation must be properly linked as part of an integrated approach built on the principle of sustainable development. In this context, the Community has tried to implement the LRRD strategic framework since the late nineties. This is a long and complex process which involves many different actors and financial instruments.*

*The main focus of the LRRD approach has been to build long term strategies on sectors and actors that are key from the traditional relief perspective, with a view to ensuring continuity and facilitating synergies. However, governance, institutional development and security have to be better integrated in the strategic framework. Moreover, funding mechanisms such as trust funds managed by international agencies, often used in this context, are not always able to support the implementation of reconstruction and rehabilitation programmes as rapidly as expected, and although they could in principle help ensuring donor coordination and coherence, they should not be used as a substitute for local ownership and EU's own presence.*

*Efforts are still needed to both update the methods of implementation of the LRRD strategic framework, with due integration of governance and security concerns, as well as to adapt procedures and financial mechanisms to situations where flexibility is crucial.*

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***B.***[*Council Conclusions on an EU response to situations of fragility 2831st EXTERNAL RELATIONS Council meeting Brussels, 19-20 November 2007*](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/97177.pdf)

**Extracts related to EC Response in situations of fragility and transition to a state of resilience**

1. *The Council acknowledges that fragility refers to weak or failing structures and to situations where the social contract is broken due to the State's incapacity or unwillingness to deal with its basic functions, meet its obligations and responsibilities regarding the rule of law, protection of human rights and fundamental freedoms, security and safety of its population, poverty reduction, service delivery, the transparent and equitable management of resources and access to power. The Council recognizes that situations of fragility, including at State level, differ and present specific features, which require adapted policy responses.*
2. *In addressing situations of fragility, the Council highlights the importance of democratic governance, rule of law, respect of human rights and fundamental freedoms, and the eradication of poverty, as well as of climate change and migration issues.*
3. *The Council endorses, on behalf of the EU, the Principles for Good International Engagement in Fragile States and Situations, emphasizes the need for a "whole-of-government" approach when addressing fragility and invites the Community and its Member States to adapt and coordinate their approaches in line with these Principles.*
4. *The Council expresses its appreciation for the work on situations of fragility being carried out by the United Nations, in particular the Peace Building Commission, the World Bank and the African Development Bank, underlining that the EU will seek to further strengthen its strategic partnerships with the UN and other multilateral actors dealing with issues of fragility.*
5. *The Council recognises that the EU should make more effective use of the full range of existing EU policy tools and external action instruments to address, in a coherent and timely manner, situations of fragility in partner countries. The EU response should therefore combine political, diplomatic, development, security and humanitarian instruments.*
6. *In situations of fragility, political dialogue is especially important and should be further developed and reinforced. Where no such dialogue exists, confidence building measures should be considered. The Council also believes that a dialogue should be pursued with civil society and local authorities.’* *‘The Council underlines that the comprehensive and forward-looking use of Community and Member States’ development instruments is required to progress in achieving the MDGs and in preventing and**addressing situations of fragility, including the following issues:*

* *Address democratic governance as a key element to prevent and overcome fragility;*
* *Support the strengthening of the capabilities of States to fulfil their core functions, as well as the strengthening of constructive linkages between State institutions and society, including Non-State Actors (NSA), with a view to building effective and legitimate political systems;*
* *Improve existing diagnostic and assessment tools, in particular through joint analysis (based for example on the Community Governance profile, the Community root causes of conflict checklist and other tools) and exchange of information between Member States, the Commission and the General Secretariat of the Council (GSC);*
* *Recognise the essential role played by women and promote gender equality, in particular by promoting the integration of women into decision making processes, in order to improve their political, social and economic empowerment;*
* *Address gender based and sexual violence, in particular by paying continued attention to the violation of the rights of women and children in conflict situations, and support the prevention and prosecution of related crimes;*
* *Address climate change and migration issues;*
* *Take into account and address specific needs of vulnerable groups;*
* *Develop early warning mechanisms on the basis of information related to democratic governance issues, rule of law, human rights, poverty levels, and use conflict sensitive approaches. The contribution from civil society in this context is important;*
* *Strengthen the role of Country Strategy Papers (CSPs), in line with national development strategies, as the preferred framework to prevent and address fragility;*
* *Make better use of the EDF and the Community financing instruments (DCI, ENPI, IfS, EIDHR), in particular by*
  + *Applying specific (more needs-based) country and regional allocation criteria, and ensuring that unforeseen needs can be met adequately;*
  + *Integrating fragility in the review process of the Governance Initiative for ACP countries and developing similar tools for DCI countries.*
  + *Making financial tools and procedures more flexible and capable to provide quick responses;*
* *Enhance the ‘Linking Relief, Rehabilitation and Development’ (LRRD) strategic framework, in particular by integrating democratic governance and institutional developments;*
* *Make use of the EU Code of Conduct on Complementarity and Division of Labour, in particular with regard to:*
* *Agreeing on the most suitable option to channel extra funding to States in a situation of fragility, in particular “aid orphans”;*
* *Identifying substantial overlaps and gaps at country level in order better to allocate existing and additional funds;*
* *Ensuring predictable and sustainable funding;*
* *Addressing poverty, as well as social and gender inequalities, by adapting existing instruments with a view to helping to achieve the MDGs in situations of fragility (e.g. to ensure donors' engagement in social sectors);*
* *Testing the EU response to situations of fragility in pilot cases.*

***Organisational Issues***

1. *The EU as a whole needs to ensure that its support to partners' efforts in addressing fragility is more responsive, quicker and more flexible. The approach should be tailor-made, articulated and holistic, combining diplomatic action, humanitarian aid, development cooperation and security. This requires:*

* *Regular and increased coordination between the Commission, the GSC and Member States at headquarters level and in the field;*
* *Regular exchanges of risk analyses and relevant responses at the field level through EU Heads of Mission meetings and at headquarters through desk-to-desk dialogues between Institutions and Member States and across Council groups;*
* *An improved framework for joint analysis and exchange of information, both at headquarters level and in the field; An analysis of donors' comparative advantages should be conducted in the framework of the Code of Conduct on Complementarity and Division of Labour;*
* *Adapting staff management, in particular through joint training and appropriate incentives to work in fragile situations.*

1. *Furthermore, this should involve the establishment of ad hoc “Country and Thematic Teams” (CTTs), involving Commission, Member States and GSC, with the Commission acting as facilitator. Such CTTs could start as soon as possible for a number of “pilot” cases and address specific situations of fragility with a view to:*

* *Working towards more coherent and coordinated action at country level, in particular by making use of all possibilities for a joint analysis and for joint programming as provided for in the Common framework for Country Strategy Papers (CFCSP);*
* *Ensuring that CSPs are regularly reviewed and adapted to the evolution of the situation;*
* *Identifying modalities of budget support in situations of fragility;*
* *Addressing “post crisis reconstruction”, with focus on the LRRD strategic framework;*
* *Using Governance profiles;*
* *Exploring the possibilities of topping up CSPs, including through a governance linked incentive “tranche”. (See Appendix 16)*

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**C.** [*Council Conclusions on Security and Development 2831st EXTERNAL RELATIONS Council meeting Brussels, 19-20 November 2007*](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/97157.pdf)

**Extracts related to EC interventions in situations of fragility and transition to resilience**

1. *The Council firmly believes that this nexus between development and security should inform EU strategies and policies in order to contribute to the coherence of EU external action, whilst recognising that the responsibilities and roles of development and security actors are complementary but remain specific.*
2. *The Council recalls that the EU, as an important global actor, can avail itself of a wide array of instruments to contribute to long-term development and poverty eradication, to prevent and manage violent conflict and to build peace in developing countries. The EU will endeavour to improve the coherence, efficiency and visibility of its external policies and build synergies between them, with due regard for cross-cutting issues such as human rights, gender, including the implementation of UNSCR 1325 on Women, Peace and Security, promotion of democracy, governance, the rule of law and environmental sustainability.*
3. *The Council fully recognises the important role of the UN in strengthening the inter-linkages between security, development and human rights. The Council also underlines the contributions of other international and regional organisations in this field, and the need to ensure coherence between work undertaken by the EU and those organisations.*
4. *The Council, underlining that conflict prevention should be pursued as a priority goal in particular by fostering and strengthening development cooperation, invites the Community, within the respective competences of its Institutions, to further enlarge* *and improve channels of dialogue and cooperation with civil society, NGOs, local authorities and the private sector.*
5. *Increasing coherence between security and development, both at a policy and an operational level, is a process that requires short-term improvements and longer term action. As a step in this process the Council has identified initial pragmatic actions for increased coherence in some of the areas spanning the security-development nexus: strategic planning, Security Sector Reform, partnerships with regional and sub regional organisations, and humanitarian aid and security. This is without prejudice to other important areas of the nexus, where work also should be taken forward in the future.*

Pragmatic Actions

***Strategic Planning:***

1. *The EU is addressing insecurity, and conflicts and their root causes, through a wide range of instruments. Inter-linkage between security and development should be seen as an integral part of the ongoing EU efforts, including those to enhance Civil-Military Coordination (CMCO) in order to address complex crises in a coherent manner.*
2. *To enhance coherence and consistency, the Council calls for further intensified cooperation within and between Council bodies, Commission services and Member States, in particular by improving the sequencing in the strategic planning of their short term and longer-term actions. This should be promoted by*

* *a more systematic consideration by the relevant Council bodies of the potential synergies between security and development, for example through joint meetings where appropriate, including across pillars;*
* *systematically carrying out security/conflict sensitive assessments and conflict analysis, where appropriate, in the preparation of country and regional strategies and programmes;*
* *taking into account the development dimension in the preparation of CFSP/ESDP activities, and taking into account security aspects, including the CFSP/ESDP dimension, in the preparation of development activities;*
* *engaging in in-depth consultations, strategic political and conflict analyses and screenings with a view to planning and acting consistently on early signs of tension, instability and fragility;*
* *ensuring coordination across the pillars through consistent planning arrangements (Member States, Commission and General Secretariat of the Council (GSC)), sequencing and implementation arrangements, including joint Fact Finding Missions and the joint establishment of a Crisis Management Concept (CMC) for a given crisis, where appropriate;*
* *promoting joint training courses and Joint Assessment Missions;*
* *intensifying cooperation with international institutions, in particular the UN, during the strategic planning process, especially on the basis of the Joint Statement on EU-UN Cooperation in Crisis Management.*

*Security Sector Reform (SSR)*

1. *On-going SSR activities have demonstrated the need for whole-of-government coordination between short and long-term planning and actions. Based on the EU Policy Framework for SSR and taking into account the work undertaken in the OECD/DAC regarding the whole-of-government approach, the Council calls on Member States, the Commission and the GSC to further improve coordination and information exchange and to pursue joint assessments by:*

* *enhancing information flows on policy developments and on-going and planned SSR activities;*
* *pursuing field coordination between all actors, including non-EU actors;*
* *when appropriate, carrying out joint assessments and analyses covering all necessary components in the area of SSR to ensure timely and well-coordinated engagement in the broader context of democratic governance;*
* *sharing experience on pooled funding and mechanisms for rapid deployment of experts and flexible support;*
* *boosting Commission and GSC in-house SSR expertise, including through joint training and secondment of national experts to assessment missions;*
* *pursuing joint efforts to build SSR capacity in regional organisations.*

*The Council notes that Disarmament, Demobilisation and Reintegration (DDR) is closely linked to SSR and the EU should continue its work on strengthening the EU’s support to DDR on the basis of the EU Joint Concept.*

***Partnerships with regional and sub-regional organisations***

1. *The Council commends the work undertaken in the framework of the EU/Africa Partnership as a way forward for a coherent and holistic approach towards security and development challenges. It is built on the partnership with a regional organisation and based on the principle of ownership, while pursuing respective security priorities. The complementarity between EU security and development priorities is supported by the necessary interaction with other policy areas like governance or regional integration, all acting in a mutually reinforcing way.*
2. *The Council therefore underlines that frameworks agreed with regional and sub-regional organisations should be considered when designing future actions related to security and development. In this context, the Council stresses the importance of the framework of the future Joint EU-Africa Strategy and its Action Plan, particularly the Peace and Security cluster.*

***Humanitarian aid and security***

1. *The Council recalls that the European Consensus on Humanitarian Aid sets out the principles and internationally agreed norms and guidelines applicable to EU humanitarian aid, which contains, inter alia, elements for developing future action. The Council underlines that, while humanitarian, development and military/security actors have different but complementary roles and mandates, interaction and cooperation must be ensured. The Council believes that the impartiality, humanity, neutrality and independence of the humanitarian action in such circumstances must and can be safeguarded, and that the effectiveness of the respective interventions can be improved by:*

* *consulting humanitarian actors from the outset during the planning process and follow up of military missions;*
* *ensuring coordination with humanitarian actors in the field, including through coordination mechanisms, when military activities are needed to secure the humanitarian space; in this regard, civil-military coordination and liaison officers should be deployed, where and when needed.*

## Appendix 5: EU Strategy for Supporting Disaster Risk Reduction in Developing Countries

Introduction

This proposed strategy contributes to reinforcing the European Union’s [response capacity](http://europa.eu/legislation_summaries/environment/civil_protection/ev0001_en.htm) in the event of [disasters and crises in Non-EU Member Countries](http://europa.eu/legislation_summaries/humanitarian_aid/l33233_en.htm). It is based on a report from the High Representative and the Commission on climate change and international security.

Many recurrent and chronic situations of transition necessitate development or strengthening of disaster risk reduction and response capacity within the developing countries. Disaster (and crisis/conflict) reduction is identified as an overall objective of EU external relations, development policy and humanitarian assistance. Disasters can be avoided. There are ways to reduce risks and to limit impacts, for example by addressing the root causes of people’s vulnerability and increasing their capacity to cope. DRR comprises preparedness, mitigation and prevention. It aims to enhance resilience to disasters and is underpinned by knowledge about how to manage risk, build capacity, and make use of information and communication technology and earth observation tools.

Since 1996, the European Commission Humanitarian Aid department’s Disaster Preparedness Programme (DIPECHO) has targeted vulnerable communities in the six most disaster-prone regions of the world: South East Asia, Central Asia, South Asia, the Andean Community, Latin America and the Caribbean.

**Highlights**

* Investing in DRR pays off. Effective DRR can reduce the loss of life and property. Studies suggest benefits in terms of prevented or reduced disaster impacts of two to four dollars for each dollar invested in DRR.
* The challenge is to translate it the strategy into effective action at global, regional, national and local level. Many developing countries are putting considerable effort into implementation, but are constrained by lack of funding and capacity
* The DIPECHO objective is to reduce the impact of natural disasters by strengthening local physical and human resources in high risk areas; demonstrating through pilot activities that simple inexpensive preparatory measures can save lives and livelihoods at community level. In parallel, it raises awareness among decision-makers for the need to integrate disaster risk reduction into longer term development policies.

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[*EC Communication EU STRATEGY FOR SUPPORTING DISASTER RISK REDUCTION IN DEVELOPING COUNTRIES. (Brussels, 23.2.2009, COM(2009) 84 final ({SEC(2009) 217} {SEC(2009) 218} {SEC(2009) 220})*](http://ec.europa.eu/development/icenter/repository/Consultation5_issues_paper_EUStrategyFortDisaster_en.pdf) *and,*

<http://ec.europa.eu/development/icenter/repository/Consultation5_issues_paper_EUStrategyFortDisaster_en.pdf> and,

<http://ec.europa.eu/echo/files/policies/dipecho/presentations/programme_overview_11_07_en.pdf>

**Extracts related to EC interventions in situations of Transition**

*The EU is the world's largest aid donor, but lacks a strategic framework to guide its DRR support to developing countries. This Communication proposes an EU strategy for supporting DRR in developing countries through both development cooperation and humanitarian aid, to help support the 2005 Hyogo Framework for Action[[49]](#footnote-49) and achieve the MDGs*

1. ***TOWARDS AN EU STRATEGY FOR SUPPORTING DRR IN DEVELOPING COUNTRIES***
   1. ***Objectives***

*The overall objective (of the EU Strategy on DRR) is to contribute to sustainable development and poverty eradication by reducing the burden of disasters on the poor and the most vulnerable countries and population groups, by means of improved DRR. (Page 6)*

*To achieve this overall objective, the EU will support the following strategic objectives:*

***(1)*** *support developing countries in integrating DRR considerations into their development policies and planning effectively;*

***(2)*** *support developing countries* *and societies in reducing disaster risk more effectively, through targeted action on disaster prevention, mitigation and preparedness;*

***(3)*** *integrate DRR considerations more effectively into EU development and humanitarian aid policies and programming, and crisis response where it covers disaster response and recovery.*

***3.2. Geographic coverage, scope and approach***

**Paragraph 2*:*** *The disasters targeted are those caused by natural (i.e. Biological, geophysical or hydro-meteorological) and technological hazards….. While acknowledging that disasters can exacerbate existing tensions and instability, the strategy will not address man-made disasters such as conflict and war (in such situations, linking DRR to crisis prevention and response efforts will be important).*

***Paragraph 3:*** *The strategy combines support for the integration of DRR in EU external action and in developing countries' strategies, and targeted DRR action which can usefully complement integration efforts with great immediate impact. Examples include key DRR investment with good replication potential, such as specific DRR programmes or regional early warning systems. The regional dimension is crucial since* (natural) *disasters do not stop at borders. The EU will use its presence and experience at regional level to support action that is more effectively taken at regional level in line with the principles of comparative advantage and subsidiarity.*

1. ***PRIORITY AREAS FOR INTERVENTION***
   1. ***Strengthen disaster preparedness for effective response at all levels***

***Paragraph 2:*** Preparedness activities are also linked naturally with response and recovery activities. In this sense they provide a good opportunity for ensuring coherence between disaster management activities, often falling within the remit of civil protection organisations and to ensure coherence and complementarity between the humanitarian and development spheres for example through developing or expanding national capacity to conduct post-disaster damage and needs assessments and to prepare plans for recovery and reconstruction from a DRR perspective.

***5. IMPLEMENTATION OF THE STRATEGY***

***5.2. EU collaboration, complementarity and coordination***

***Paragraph 3:*** *To take forward the political dialogue on DRR, oversee the implementation of the strategy and foster coordination and alignment of EU support, the Commission will set up an EU DRR Steering Group (SG) including the Commission and EU Member States. This SG will:*

* *In 2009, develop an Implementation Plan to clarify the key actions, responsibilities, main instruments and the sequencing of implementation for the priorities listed in para 5.1. In 2011, review this in order to take forward implementation of the remainder of the Strategy. – insert reference to current status?*
* *Promote the setting up of DRR networks in disaster-prone countries and regions to exchange information and experience and promote opportunities for collaboration and enhanced implementation of the Strategy.*
* *Establish a forum for regular consultation and exchange with civil society, NGOs and national and regional representatives. - Establish technical standardisation of response and coordination mechanisms?*
* *Establish an appropriate framework to* monitor progress and financing, and evaluate the implementation of the strategy.
  1. ***EU funding instruments***

*The EU will implement the strategy using the full range of funding instruments at its disposal........*

***Paragraph 2:*** *As to the EC, its main funding sources include the European Development Fund (EDF) and instruments of the EC general budget27. Individual DRR allocations are set out in Country and Regional Strategy Papers for all developing regions, intra-ACP programmes, Drought Preparedness and DIPECHO programmes in the humanitarian aid context, and in thematic programmes on food security and environment/natural resources.*

## Appendix 6: The EU policy framework to assist developing countries in addressing food security challenges

**Introduction**

Food security is often essential in situations of transition. It is also an area which clearly involves both humanitarian and development interventions in most situations of transition.

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| **Highlights**   * Rural producers and communities need to be resilient in the face of food-related crises. * While short term responses to crises often require mobilisation of ad hoc humanitarian instruments, other mechanisms and capacities need to be built and maintained to reduce the risks of crises occurring and to manage their effects. Close linkage between humanitarian and development actors and instruments is essential * The EC will strengthen assistance mechanisms for vulnerable population groups by providing specific support to countries in transition and fragility using LRRD principles. |

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[*An EU policy framework to assist developing countries in addressing food security challenges (COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT, Brussels, 31.3.2010, COM(2010)127 final)*](http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2010_0127_EN.PDF)

**Extracts related to EC interventions in situations of fragility and transition to a state of resilience**

1. **Rationale**

***paragraph 5:*** *The objective of this Communication is to provide a common policy framework for the EU and its Member States in the fight against world hunger and malnutrition, thereby contributing towards achieving MDG 1. ....... This Communication is complemented by a Communication on Humanitarian Food Assistance, which focuses on emergency and post-emergency contexts.*

1. **A comprehensive approach to food security**

***Paragraph 4:*** E*vidence shows that investments in the smallholder sector yield the best returns in terms of poverty reduction and growth. This new EU framework therefore concentrates on enhancing incomes of smallholder farmers and the resilience of vulnerable communities, supporting the resolve of countries that prioritise agriculture and food security in their development efforts.*

**2.4 Improving crisis prevention and management**

*Rural producers and communities need to be resilient against the effects of food-related crises. While short term responses to crises often require mobilisation of* ad hoc *humanitarian instruments, other mechanisms and capacities need to be built and maintained to reduce the risks of crises occurring and to manage their effects. Close linkage between humanitarian and development actors and instruments is essential and should be promoted using Linking Relief Rehabilitation and Development (LRRD) principles.*

*The EU and its Member States should step up efforts in supporting regional integration in developing countries, as closer regional integration forms another means of preventing economic, political and food security crises, and of mitigating their effects.*

*National or regional early warning systems capable of predicting imminent disasters need to be strengthened or developed where they do not exist, and better linked to decision making and response organisations. Linking weather data with nutritional information, crops and animal disease outbreaks and market prices, the systems need to draw their data from all levels, including community-level. The EU and its Member States should support decision linked monitoring and information systems, including through the work of the Commission.*

*Policies to address the challenge of price volatility can either tackle volatility itself, or its impacts. To mitigate volatility, the stock-to-use ratio of food products needs to be improved......... . The impacts of price volatility can be mitigated by using a range of measures, including the establishment of scalable safety nets, food security information systems, use of (weather, index) insurance, and an enhanced capacity to use price risk management instruments.*

1. ***Priorities***

The Communication identifies a series of concentration areas that should form the backbone of the EU Food Security Strategy. Among others it suggests:

* 1. ***Strengthen assistance mechanisms for vulnerable population groups***(Page 9):
* *Provide specific support to countries in transition and fragility using LRRD principles.*

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## Appendix 7: Humanitarian Food Assistance

Introduction:

The EC sets out the policy framework for EU humanitarian food assistance in its Communication to the Council in 2010. It explains the issues and trends to be taken into account; the concepts, definitions and objectives that should drive humanitarian food assistance; the principles that should underscore this work; and the scope of activities undertaken.

The accompanying Staff Working Document explains, from a more detailed operational perspective, how the Commission programmes, implements and coordinates its humanitarian food assistance.

This Communication should be read in conjunction with the Commission's Communication on food security *("An EU policy framework to assist developing countries in addressing food security challenges", s*ee Appendix 6*).* Two separate Communications on these interrelated topics are deemed necessary in order to respect the distinction between their policy focus i.e. food assistance linked to humanitarian objectives for populations affected by crises in emergency contexts and food security linked to development objectives. The two policy frameworks have been designed in such a way as to ensure coherence and safeguard against uncoordinated overlap.

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| **Highlights**   * Humanitarian food assistance operations and food security development interventions should be designed and implemented in such a way that together they ensure an optimal coverage of emergency and development needs, whether they succeed each other in a continuum or coexist in a contiguum, as in many fragile states. They should be coordinated and eventually dovetailed with each other so as to maximise opportunities for sustainable and durable impact, pursuing the ultimate objective of self-reliance for victims of food crises. * EU humanitarian food assistance will therefore uphold Linking Relief Rehabilitation and Development (LRRD) principles and facilitate LRRD objectives, in accordance with the 2001 Commission Communication on LRRD, with the 2007 EU Humanitarian Aid Consensus, and within the stipulations of the Framework Partnership Agreement.’ * The Commission recognises that its humanitarian instruments do not have a comparative advantage in addressing chronic food insecurity. In principle, it will not use humanitarian food assistance to address chronic food insecurity, except: where non-intervention poses immediate or imminent humanitarian risk of significant scale and severity; where other more appropriate actors, including its own development instruments, are either unable or unwilling to act, and cannot be persuaded to act; and where, in spite of its comparative disadvantages, positive impact can be expected within the time limitations of its intervention. |

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[*Humanitarian Food Assistance. COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT. Brussels, 31.3.2010 COM(2010) 126 final*](http://ec.europa.eu/echo/files/policies/foodaid/HFA_Communication_220310.pdf)and the policies of DG ECHO:

<http://ec.europa.eu/echo/files/policies/foodaid/HFA_Communication_220310.pdf> and,

<http://ec.europa.eu/echo/policies/strategy_en.htm>

**Extracts related to EC interventions in situations of fragility and transition to a state of resilience**

1. ***Definitions and Objectives*** (Page 3):

*Humanitarian food assistance aims to ensure the consumption of sufficient, safe and nutritious food in anticipation of, during, and in the aftermath of a humanitarian crisis, when food consumption would otherwise be insufficient or inadequate to avert excessive mortality, emergency rates of acute malnutrition, or detrimental coping mechanisms. This includes ensuring food availability, access to nutritious food, proper nutrition awareness, and appropriate feeding practices. Food assistance may involve the direct provision of food, but may utilize a wider range of tools, including the transfer or provision of relevant services inputs or commodities, cash or vouchers, skills or knowledge.*

**Paragraph 6** (Page 5): *… the principal objective of humanitarian food assistance is to save and preserve life, to protect livelihoods, and to increase resilience, for populations facing on-going or firmly forecasted8 food crises, or recovering from them.*

*This is to be achieved through the specific objectives of humanitarian food assistance, as follows:*

1. *to safeguard the availability of, access to, and consumption of adequate, safe and nutritious food for populations affected by on-going, firmly forecasted, or recent humanitarian crises so as to avoid excessive mortality9, acute malnutrition, or other life-threatening effects and consequences;*
2. *to protect livelihoods threatened by recent, on-going, or imminent crises, minimise damage to food production and marketing systems, and establish conditions to promote the rehabilitation and restoration of self-reliance; and*
3. *to strengthen the capacities of the international humanitarian aid system, to enhance efficiency and effectiveness in the delivery of food assistance.*
4. ***Principles***

**Paragraph 4:***Financing of humanitarian food assistance interventions will be prioritised according to (i) the severity of the crisis and the scale of the unmet needs (ii) the immediacy of the crisis, and (iii) the expected impact of the response. However, the EU is also committed to demonstrating solidarity on a global basis, to sharing the burden of urgent unmet humanitarian food needs and to responding to forgotten crises.*

**Paragraph 13:** *Humanitarian food assistance operations and food security development interventions should be designed and implemented in such a way that together they ensure an optimal coverage of emergency and development needs, whether they succeed each other in a continuum or coexist in a contiguum, as in many fragile states. They should be coordinated and eventually dovetailed with each other so as to maximise opportunities for sustainable and durable impact, pursuing the ultimate objective of self-reliance for victims of food crises.*

**Paragraph 14:** *EU humanitarian food assistance will therefore uphold Linking Relief Rehabilitation and Development (LRRD) principles and facilitate LRRD objectives, in accordance with the 2001 Commission Communication on LRRD, with the 2007 EU Humanitarian Aid Consensus, and within the stipulations of the Framework Partnership Agreement.*

1. **SCOPE OF HUMANITARIAN FOOD ASSISTANCE ACTIONS**
   1. ***The operational scope of the Commission’s Humanitarian Food Assistance***

**Paragraph 3:** *In considering whether and how to respond to a given food crisis, the Commission will pay close attention to the comparative advantages and disadvantages of its humanitarian instruments. This will be founded on a careful analysis of the needs and causes; on consideration of the type of response that will best tackle those needs in the most appropriate way without doing harm; and on a close review of the alternative funding sources available.*

**Paragraph 4:** *The Commission recognises that its humanitarian instruments do not have a comparative advantage in addressing chronic food insecurity. In principle, it will not use humanitarian food assistance to address chronic food insecurity, except: where non-intervention poses immediate or imminent humanitarian risk of significant scale and severity; where other more appropriate actors, including its own development instruments, are either unable or unwilling to act, and cannot be persuaded to act; and where, in spite of its comparative disadvantages, positive impact can be expected within the time limitations of its intervention. In such cases, the Commission will only engage humanitarian food assistance on the basis of dialogue, coordination and advocacy with potential development players, where they exist, and with a clear and realistic exit-strategy defined, ensuring coordinated transition and thus avoiding uncoordinated overlap.*

**Paragraph 6:** *The Commission will also consider phasing out its humanitarian support where non-humanitarian players (e.g. state or development actors) are able to cover the population’s food gap or where the humanitarian needs of the population are fully covered by other humanitarian donors and actors.*

**Paragraph 7:** *The Commission will at all times evaluate its humanitarian exit strategies on the basis of its comparative advantages relative to other available actors, and will avoid creating disincentives to the engagement of other more appropriate actors arising from its own delayed exit. It will advocate for the engagement of the most appropriate actors across the relief and development spectrum, according to the context and needs.*

* 1. ***Supportive Actions***

**Paragraph 5**: *Effective integration of humanitarian and development assistance must be promoted through LRRD, ensuring that the international aid system operates consistently, coherently and transparently to address hunger and vulnerability. Advocacy should ensure that collective efforts span emergency, transitional and developmental needs simultaneously, and promote enabling conditions linked to good governance and conducive national and international policies (e.g. for trade and migration).*

## Appendix 8: The financial Instrument for Development Cooperation (DCI)

Introduction:

This instrument encompasses, first and foremost, cooperation with partner countries and regions selected geographically, namely: Latin America, Asia, Central Asia, the Middle-East and South Africa. The second DCI component consists of five thematic programmes. The third pillar of the DCI regulation is a series of secondary measures favouring the 18 ACP signatories to the sugar protocol.

The Development instrument provides ample possibilities for financing of transition interventions. Flexibility to finance strategic interventions in situations of transition exists within geographical programmes and to a lesser extent within the thematic programmes.

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| **Highlights**   * In circumstances such as crises, post conflict situations or threats to democracy, the rule of law, human rights or fundamental freedoms, **a special emergency procedure may be used to conduct an *ad hoc* review of the country's or region's cooperation strategy. Such reviews may propose a country or region strategy to make the transition to long-term cooperation and development.** * Where partner countries or groups of partner countries are directly involved in, or affected by, a crisis or post-crisis situation, **multi-annual indicative programmes shall place special emphasis on stepping up coordination between relief, rehabilitation and development to help them make the transition from an emergency situation to the development phase;** * Programmes for countries and regions regularly subject to natural disasters shall provide disaster preparedness and prevention as well as the management of the consequences of such disasters.’ * [In the event of unforeseen and duly justified needs or circumstances related to natural disasters, civil strife or crises, which cannot be funded by the Instrument for Stability](http://www.infocenter.zavodekvilib.si/en/dokumenti/regulation-ec-no-1717-2006-establishing-an-instrument-for-stability/),(Appendix 12) **the Commission shall adopt special measures not envisaged by the strategy papers or multiannual indicative programmes (hereinafter referred to as ‘special measures’). Special measures may also be used to fund measures to ease the transition from emergency aid to long-term development operations**, including measures to prepare people more adequately to deal with recurring crises. |

Geographical DCI programmes

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*Regulation (EC) No* [*1905/2006*](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2006&nu_doc=1905) *of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation.*

Extracts related to EC interventions in situations of fragility and transition to a state of resilience

***Article 2 Objectives***

***2.6:*** *Measures covered by Regulation (EC) No 1717/2006 (Instrument of Stability) (TS 17) and in particular Article 4 thereof, shall not, in principle, be funded under* *this Regulation,* ***except where there is a need to ensure continuity of cooperation from crisis to stable conditions for development[[50]](#footnote-50)****.*

***Article 5 Geographic Programmes***

This Article enables a wide range of EC financed interventions within the geographical instruments of the Development Cooperation Instrument. Some of these are of direct relevance to situations of transition and fragility.

***5(r)*** *developing capacities for emergency preparedness and prevention of natural disasters;*

***5(w)*** *reconstructing and rehabilitating, in the medium- and long-term, regions and countries affected by conflict, man-made and natural disasters, including support for mine-action, demobilisation and reintegration actions, while ensuring the continuum between relief, rehabilitation and development in accordance with Article 2(6), bearing in mind the competences of the Community and its Member States;*

***5(x)*** *carrying out medium- and long-term activities aimed at the self-sufficiency and integration or reintegration of uprooted people, ensuring that an integrated and consistent approach between humanitarian aid, rehabilitation, aid to uprooted people and development cooperation is pursued. Community action shall facilitate the transition from the emergency stage to that of development, encouraging the socioeconomic integration or reintegration of the people affected, and encourage the establishment or strengthening of democratic structures and the role of the population in the development process;*

***5(y)*** *in fragile or failing States, supporting the delivery of basic services and building of legitimate, effective and resilient public institutions;*

***Article 15 food security***

***15.2(d)*** *addressing food insecurity in exceptional situations of transition and State fragility, playing a central role in linking relief, rehabilitation and development. The thematic programme shall:*

*(i) support interventions to protect, maintain and recover productive and social assets vital for food security, to facilitate economic integration and longer term rehabilitation; and*

*(ii) support crisis prevention and management, to address vulnerability to shocks and to strengthen people's resilience;*

***Article 18 General Framework for the programming and allocation of funds***

***18.2*** *The Commission shall determine the multiannual indicative allocations within each geographic programme using standard, objective and transparent resource allocation criteria, based on the needs and performance of the partner country or region concerned and bearing in mind the particular difficulties faced by countries or regions in crisis, conflict or disaster prone, alongside the specificity of the different programmes.*

***Article 19 Geographic Strategy papers and multiannual indicative programmes***

***19.4*** (on review of financial allocations) *A multiannual indicative allocation may be increased or decreased as a result of reviews, particularly in* the light of *special needs such as those of a post-crisis situation, or where performance has been exceptional or unsatisfactory.*

***19.5*** (on specific review when LRRD is needed) *In circumstances such as crises, post conflict situations or threats to democracy, the rule of law, human rights or fundamental freedoms, a special emergency procedure may be used to conduct an ad hoc review of the country's or region's cooperation strategy. Such reviews may propose a country or region strategy to make the transition to long-term cooperation and development.[[51]](#footnote-51)*

***19.6*** *In accordance with Article 2(6), the strategy shall ensure that measures taken under this Regulation are consistent with, and avoid duplication with, measures eligible for funding under other Community instruments, in particular Regulation (EC) No 1717/2006 and Regulation (EC) No 1257/96. Where partner countries or groups of partner countries are directly involved in, or affected by, a crisis or post-crisis situation, multi-annual indicative programmes shall place special emphasis on stepping up coordination between relief, rehabilitation and development to help them make the transition from an emergency situation to the development phase; programmes for countries and regions regularly subject to natural disasters shall provide for disaster preparedness and prevention and the management of the consequences of such disasters.*

***Article 23 Adoption of special measures not provided for in the strategy papers or multiannual indicative programmes***

***23.1***(i.e. special measures) *In the event of unforeseen and duly justified needs or circumstances related to natural disasters, civil strife or crises, and which cannot be funded under Regulation (EC) No 1717/2006 or Regulation (EC) No 1257/96, the Commission shall adopt special measures not provided for in the strategy papers or multiannual indicative programmes (hereinafter referred to as ‘special measures’).*

*Special measures may also be used to fund measures to ease the transition from emergency aid to long-term development operations, including those to better prepare people to deal with recurring crises.*

***23.2*** *Special measures shall specify the objectives pursued, the intervention areas, the expected results, the management procedures and the total amount of financing. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and the indicative timetable for their implementation. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures.*

***23.3*** *Where the cost of such (i.e. special) measures exceeds EUR 10 million, the Commission shall adopt them under the management procedure referred to in Article 35(2).[[52]](#footnote-52) For special measures below EUR 10 million, the Commission* *shall* *send the measures to the Member States and the European Parliament for information within one month of adopting its decision. [[53]](#footnote-53)*

***23.4*** *The procedure referred to in Article 35(2) (see footnote 10) need* ***not be used for amendments to special measures****, such as those making technical adjustments, extending the implementation period, reassigning funds within the forecast budget, or increasing or reducing the size of the budget by less than 20 % of the initial budget, provided these amendments do not affect the initial objectives set out in the Commission decision. Any such technical adjustments shall be communicated within one month to the European Parliament and to the Member States.*

Thematic DCI programmes

Background information

In addition to the geographic programmes the Regulation provides for five thematic programmes:

***1.*** [***Investment in Human Resources***](http://europa.eu/legislation_summaries/development/general_development_framework/r12547_en.htm)

***2.*** [***Environment and the sustainable management of natural resources***](http://europa.eu/legislation_summaries/development/general_development_framework/l28173_en.htm)

***3.*** [***Non-state actors and local authorities***](http://europa.eu/legislation_summaries/development/general_development_framework/r12554_en.htm)

***4.*** [***Improvement of food security***](http://europa.eu/legislation_summaries/development/general_development_framework/r12546_en.htm)

***5.*** [***Cooperation in the area of migration and asylum***](http://europa.eu/legislation_summaries/development/african_caribbean_pacific_states/r12540_en.htm)

Of these five Thematic Programmes, numbers 3 and 4 have particular significance in situations of fragility and in assisting in the transition to a state of resilience:

***3.*** [***Non-state actors and local authorities***](http://europa.eu/legislation_summaries/development/general_development_framework/r12554_en.htm)

*The primary aim of this new programme is to strengthen the abilities of non-state actors and local authorities to provide help. It also serves to co-finance actions in areas as diverse as rural development, health, environmental protection and education, as well as long-term partnerships between civil society and local authorities. These initiatives may be grouped according to the following three principal objectives: supporting actions aimed at a democratic, cohesive and autonomous society in partner countries by enhancing the skills of non-state actors and local authorities, supporting populations with no access to resources or basic services and excluded from the political decision-making process, and favouring dialogue between state and non-state actors; financing awareness-raising and educational initiatives among the European population on the topic of development, by encouraging a better understanding of the stakes involved and stronger involvement of all in the fight against poverty and more balanced relations between the differing regions of the world; facilitating coordination and communication between local authority networks and civil society stakeholders, both involved in the European public debate on development.*

*The programme will be financed by a total budget of around EUR 1.6 billion for the 2007-13 period.*

***4.*** [***Improvement of food security***](http://europa.eu/legislation_summaries/development/general_development_framework/r12546_en.htm)

The Development Cooperation Instrument (DCI) is the legal basis for the Food Security Thematic Programme (FSTP). *Lessons learnt from the first phase of the Thematic Strategy (2007-2010) and the recent Communication 'An EU policy framework to assist developing countries in addressing food security challenges' (See Appendix 6) have prepared the ground for the second phase of the FSTP. This thematic instrument continues to complement the European Union's (EU) commitment towards achieving the Millennium Development Goal on the eradication of poverty and hunger (MDG 1). It accompanies EU geographical instruments by addressing the global, continental and regional dimensions of food security and by ensuring transition from relief to development, as well as assisting countries in particularly fragile situations. In Africa, in particular, the FSTP will contribute to the implementation of the Joint Africa-EU Strategy.*

*The objective of the revised FSTP strategy remains: 'to improve food security in favour of the poorest and most vulnerable and contribute to achieving MDG 1, through a set of actions which ensure overall coherence, complementarity and continuity of EU interventions, including in the area of transition from relief to development as well as in particularly fragile situations'. This objective is to be pursued during the period 2011-2013 through three strategic priorities:*

1. *Research, technology transfer and innovation to enhance food security: this priority aims to support pro-poor and demand-driven agricultural research and technology, including by improving its outreach and dissemination, and by fostering innovative practices and approaches to food security.*
2. *Strengthened governance approaches for food security: this priority aims to (i) support global, continental, regional and national improvements in food security governance, (ii) make available and improve use of reliable and timely food security information, (iii) intensify the policy dialogue and lesson learning on food security at all levels and with all stakeholders, and (iv) enhance coordination and aid effectiveness.*
3. *Addressing food security for the poor and vulnerable in fragile situations: this priority aims to address the food insecurity of the most vulnerable populations in exceptional situations of transition and fragility where EU geographical instruments are not present or are present but cannot sufficiently address food security problems. Depending on the country situation, this priority can address all four pillars of food security including interventions to protect, maintain and recover productive and social assets vital for food security, and to address vulnerability to shocks and strengthen resilience.*

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[*Food Security Thematic Programme*](http://ec.europa.eu/europeaid/how/finance/dci/food_en.htm)*;* [FSTP Thematic Strategy Paper (Update) and Multiannual Indicative Programme 2011-2013](http://ec.europa.eu/development/icenter/repository/FSTP%202011-2013_Commission%20adoption.pdf)

**4.** **The Thematic Strategy**

**4.2** **Strategic priorities**

**4.2.3 Addressing food security for the poor and vulnerable in fragile situations**

*This priority continues to address food insecurity in exceptional situations of transition and fragility. It will adhere to the strict application of subsidiarity principles in line with the principles of intervention contained in the DCI which aim to provide distinctive added value and complement programmes of a geographic nature, the latter constituting the main framework for EU cooperation with third countries.*

*Within this priority, LRRD will continue to play an important role, including close coordination with DG ECHO on humanitarian efforts and at the same time promoting a twin-track approach combining recovery and rehabilitation for the most vulnerable with medium-to-long term food security support. The resilience of rural producers and communities forms a core condition to mitigate the effects of food-related crises.*

*While short term responses to food and nutrition crises often require mobilisation of separate ad hoc humanitarian instruments, other mechanisms and capacities need to be built and maintained on a more sustainable basis in order to escape recurrent food insecurity and malnutrition and to reduce the risks of crises occurring and to better manage their effects. Such mechanisms include early warning systems, food reserves, insurance, savings and credit systems, safety nets and other social transfers. In this respect, lessons learnt and best practice from the Food Facility will be taken into account.*

*Under this priority, all four pillars of food security will be addressed, including interventions to protect, maintain, and recover productive assets vital for food security, reduce malnutrition and address vulnerability to shocks and strengthen resilience. It includes, among others, community-based interventions for reducing and/or mitigating risks, support to social transfer mechanisms including safety nets (which will need to be effective, affordable and flexible, allowing for quick expansion in times of crisis), interventions for strengthening the development capacities of communities, and basic socio-economic infrastructures at community level. Increased attention will be paid to nutrition, particularly assisting those for whom appropriate nutrition will have a positive effect on the achievements of MDG 1c (prevalence of underweight children under five years of age), and MDGs 4 (reducing child mortality) and 5 (improving maternal health).*

*This strategic priority will operate in a restricted number of countries, characterised by food insecurity and situations of fragility and vulnerability. The food insecure and fragile countries will be selected according to criteria defined under point 5.1.3.*

*Assistance should support the development of strategic approaches to deal with food security in these countries, allowing for financing to be taken over by geographical cooperation.*

*In each selected country, the issue of coherence, coordination and complementarity between humanitarian operations and development operations will be tackled through the elaboration of a Joint Humanitarian-Development framework (involving DG ECHO offices as well as EU Delegations), in partnership with affected communities and local authorities and, if possible, with other public institutions.*

## Appendix 9 The financial Instrument for the European Neighbourhood Partnership (ENPI)

Introduction

The European Neighbourhood and Partnership Instrument directs European Union aid to 17 countries: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian National Authority, Russia, Syria, Tunisia and Ukraine. It is a specific component of transborder cooperation which covers the border regions of the member states of the European Union.

This instrument goes beyond development in line with the Neighbourhood policy. However, the scope of EC assistance provided under ENPI is relevant in situations of fragility (see ***Article 2*** for full scope). As with the other external geographical instruments, the ENPI is not created specifically to address (post) crisis situations but still enables LRRD/Transition measures by allowing financing of interventions in (post) crisis situations. Furthermore, the instrument provides ad hoc reviews and special measures in case of crisis.

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| **Highlights**   * The ENP financial instrument allows the EC to provide support in post-crisis situations, including support to refugees and displaced persons, and assisting in disaster preparedness * In the event of crises or threats to democracy, the rule of law, human rights and fundamental freedoms, or of natural or man-made disasters, an emergency procedure may be used to conduct an *ad hoc* review of strategy papers. * Special measures may also be used to fund activities to ease the transition from emergency aid to long-term development activities, including activities intended to ensure that the public is better prepared to deal with recurring crises. |

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[Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument.](http://ec.europa.eu/europeaid/where/neighbourhood/index_en.htm)

Extracts related to EC interventions in situations of crisis

**TITLE I OBJECTIVES AND PRINCIPLES**

***Article 2* Scope of Community assistance**

1. *Community assistance shall be used to support measures within the following areas of cooperation:*

***(aa)*** *providing support in post-crisis situations, including support to refugees and displaced persons, and assisting in disaster preparedness;*

**TITLE II PROGRAMMING AND ALLOCATION OF FUNDS**

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

1. *In the event of crises or threats to democracy, the rule of law, human rights and fundamental freedoms, or of natural or man-made disasters, an emergency procedure may be used to conduct an ad hoc review of strategy papers. This review shall ensure coherence between Community assistance provided under this Regulation and assistance provided under other Community financial instruments, including Regulation (EC, Euratom) of the European Parliament and of … the Council of establishing an Instrument for Stability.*

**TITLE IV IMPLEMENTATION**

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

1. *In the event of unforeseen and duly justified needs or circumstances, the Commission shall adopt special measures not provided for in the strategy papers or multi-annual indicative programmes (hereinafter special measures).*

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

1. *Where the cost of such measures exceeds EUR 10 000 000, the Commission shall adopt them in accordance with the procedure referred to in Article 26(2). [[54]](#footnote-54)*

*The procedure referred to in Article 26(2) need not be used for amendments to special measures such as those making technical adjustments, extending the implementation period, reallocating appropriations within the forecast budget, or increasing the size of the budget by less than 20 % of the initial budget, provided these amendments do not affect the initial objectives set out in the Commission decision.*

1. *Special measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures used and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures*
2. *The Commission shall send special measures the value of which does not exceed EUR 10 000 000 to the European Parliament and the Member States for their information within one month of adopting its decision.”*

## Appendix 10: The European Development Fund[[55]](#footnote-55)

Introduction

The EDF is the Financial Instrument used to implement the Cotonou ACP Partnership Agreement (Appendix 1). The Financial Regulations applicable to the 10th EDF are to a large extent similar to the Financial Regulations applicable to the EU budget, particularly when it comes to EC interventions in situations of crisis and transition. The FR provide the overall rules for implementation of EC aid within the ACP-EU Cotonou Agreement including Annex IV (implementing and management procedures)[[56]](#footnote-56) and in harmonisation with the COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities

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| **Highlights**   * Article 168(2) declares that **Crisis situations shall be understood to mean, for third countries, situations posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country,** and which could seriously harm: (a) the safeguarding of the common values, fundamental interests, independence and integrity of the European Union; (b) the security of the European Union, peace-keeping and international security, promotion of international cooperation or **development** and strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms * In such situations of transition/crisis, Article 36 of the financial regulations provides the EC with the possibility of taking over programming and implementing powers from ACP states – this is in line with Article 4 of Annex IV in the Cotonou Agreement (see TS2). Furthermore, the FR provides the possibility for the EC to use available EDF resources to cover any additional costs incurred due to the replacement of a National or Regional Authorising Officer. |

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1. *[REGULATIONS COUNCIL REGULATION (EC) No 215/2008 of 18 February 2008 on the Financial Regulation applicable to the 10th European Development Fund](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:078:0001:0034:en:PDF)*
2. Articles 168, 171 & 253 of the Rules for implementing the Financial Regulation applicable to the general budget of the European Communities that apply, *mutatis mutandis,* to the Financial Regulation applicable to the 10th EDF.
3. Extracts related to EC interventions in situation of transition

**PART ONE MAIN PROVISIONS**

**TITLE IV IMPLEMENTATION OF EDF RESOURCES**

***CHAPTER 3 Financial actors***

***SECTION 2 Authorising Officer***

***Article 36:***

1. ***Paragraph 2****: In cases where the national or regional authorising officer does not or is unable to perform the duties incumbent on him under the ACP-EC Agreement, the authorising officer by delegation may temporarily take his place, in which case, the Commission may receive, from the resources allocated to the ACP State in question, financial compensation for the extra administrative workload incurred.*

**TITLE V PROCUREMENT**

***CHAPTER 2: Procurement procedures***

***Article 94:***

1. *Where the Commission acts as contracting authority for the implementation of humanitarian aid or emergency aid within the framework of the ACP-EC Agreement or the Overseas Association Decision, it shall be required to comply with the relevant Community rules on procurement.*

***TITLE VII GRANTS***

***CHAPTER 2: Principles***

***Article 106***

*Grants shall be subject to an annual work programme, to be published at the start of the year. That annual work programme shall be implemented through the publication of calls for proposals, save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary or of the action leave no other choice for a given action, or where the beneficiary is identified in the ACP-EC Agreement and the Overseas Association Decision as recipient of a grant.*

*The requirement to use annual work programmes (Authors insertion) shall not apply to crisis management aid and humanitarian aid operations.*

***Article 108***

1. *A grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded.*

*In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases or in the case of expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations, as provided for in the ACP-EC Agreement or the Overseas Association Decision.[[57]](#footnote-57)*

1. Extracts related to EC interventions in situation of transition

Rules for implementing the Financial Regulation applicable to the general budget of the European Communities that apply, *mutatis mutandis,* to the Financial Regulation applicable to the 10th EDF.

***Article 168 (Exceptions to calls for proposals)***

*1. Grants may be awarded without a call for proposals only in the following cases:*

1. *for the purposes of humanitarian aid, within the meaning of Council Regulation No 1257/96 (1) and aid for crisis situations within the meaning of paragraph 2;*
2. *in other exceptional and duly substantiated emergencies;*

***Paragraph 2:*** *Crisis situations shall be understood to mean, for third countries, situations posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:*

1. *the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;*
2. *the security of the European Union, peace-keeping and international security, promotion of international cooperation or development and strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms, in accordance with Article 11 of the Treaty on European Union and Article 3 of Council Regulation (EC) No 381/2001.*

***Article 171*** *(Retroactive effect for management of humanitarian aid and crisis situations)*

*In order to ensure that humanitarian aid operations and operations in crisis situations within the meaning of Article 168(2) are conducted efficiently, expenditure incurred by a beneficiary before the date of submission of the application shall be eligible for Community financing solely in the following cases: (a) where the expenditure relates to the constitution of stocks by the applicant for use in connection with the action for which the grant is awarded; (b) by way of exception and for properly substantiated reasons, where the financing decision and the grant agreement explicitly provide for this by setting an eligibility date earlier than the date for submission of applications.*

***CHAPTER 2 Award principles (Grants)***

***Article 253 (Financing in full)***

1. *By way of derogation from the co-financing requirement in connection with grants, referred to in Article 109 of the Financial Regulation, the financing of an action in full may be authorised in the following cases, save where prohibited by the basic act:*
2. *humanitarian aid, including assistance for refugees, uprooted persons, rehabilitation and mine disposal;*
3. *aid in crisis situations within the meaning of Article 168(2)*

## Appendix 11: European Instrument for Democracy and Human Rights (EIDHR)

**Introduction**

The financing instrument for the promotion of democracy and human rights worldwide allows for assistance independent from the consent of third country governments and other public authorities. It is therefore often used in situations of fragility and plays an important role in promoting and assisting countries to become more resilient. The promotion, development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms constitute a prime objective of the Community’s development policy and economic, financial and technical cooperation with third countries. A commitment to respect, promote and protect democratic principles and human rights is an essential element of the Community’s contractual relations with third countries.

This financing instrument contributes to the achievement of the objectives of the development policy statement in the ‘European Consensus on Development’ (DPS) (Section 2.2.2 & Appendix 3. It also contributes to achieving the objective of the Union’s Common Foreign and Security Policy, as set out in Article 24 of the consolidated Treaty on European Union (TEU Section 2.1.1) regarding the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms. In particular, in addition and complementary to the other cooperation Instruments (ENPI, DCI, the Cotonou Agreement and the Instrument for Stability), the EU provides assistance under this Regulation that addresses global, regional, national and local human rights and democratisation issues in partnership with civil society understood to span all types of social action by individuals or groups that are independent from the state and active in the field of human rights and democracy promotion.

**Highlights**

* The Commission needs to consult representatives of civil society, as well as other donors and actors, as early as appropriate in the programming process in order to facilitate their respective contributions and to ensure that assistance activities are as complementary to each other as possible.
* The Community needs to be able to respond rapidly to unforeseen needs and in exceptional circumstances in order to enhance the credibility and effectiveness of its commitment to the promotion of democracy and human rights in countries where such situations arise. This requires that the Commission have the possibility to decide on Special Measures not covered by Strategy Papers. This assistance management instrument corresponds to those included in the other external assistance financing instruments.
* The Community should also be able to respond in a flexible and timely manner to the specific needs of human rights defenders by means of ad hoc measures which are not subject to calls for proposals. Moreover, eligibility of entities which do not have legal personality under the applicable national law is also possible under the conditions of the Financial Regulation.

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[*REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide*](http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm)

Extracts related to EC interventions in situations of fragility and transition to a state of resilience

***TITLE II IMPLEMENTATION***

***Article 4 General framework for implementation***

*Community assistance under this Regulation shall be implemented through the following measures:*

1. *Strategy Papers and revisions thereof as appropriate;*
2. *Annual Action Programmes;*
3. *Special Measures;*
4. *Ad hoc Measures.*

***Article 6 Annual Action Programmes***

1. *Notwithstanding Article 7, the Commission shall adopt Annual Action Programmes based on the Strategy Papers and Revisions referred to in Article 5.*
2. *In case an Annual Action Programme has not yet been adopted, the Commission may exceptionally, on the basis of the Strategy Papers referred to in Article 5, adopt measures not provided for in an Annual Action Programme under the same rules and procedures as for Annual Action Programmes.*

***Article 7 Special Measures***

1. *Notwithstanding Article 5, in the event of unforeseen and duly justified needs or exceptional circumstances, the Commission may adopt Special Measures not covered in the Strategy Papers.*
2. *Special Measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures and the total amount of financing. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and the indicative timetable for their implementation. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures.*

***3.*** *Where the cost of such measures is equal to or exceeds EUR 3 000 000, the Commission shall adopt them in accordance with the procedure laid down in Article 17(2).*

***4.*** *For Special Measures costing below EUR 3 000 000, the Commission shall send the measures to the European Parliament and the Member States for information within 10 working days of adopting its decision.*

***Article 9* Ad hoc *Measures***

1. *Notwithstanding Article 5, the Commission may allocate small grants on an* ad hoc *basis to human rights defenders responding to urgent protection needs.*
2. *The Commission shall regularly inform the European Parliament and the Member States of the* ad hoc *measures carried out.*

## Appendix 12: The financial Instrument for Stability

Introduction:

The Instrument for Stability (IfS) aims to strengthen security in partner countries where there is an actual or emerging crisis (short-term component). It also guarantees security in stable countries (long-term component).

Endowed with some €2 billion over the period 2007-2013, the Instrument for Stability enables the EU to respond to crises in a timely, efficient and more coordinated manner, acting when no other EU cooperation instruments are available. Since its inception in 2007 a significant number of IfS measures have been crafted to complement the overall EU or broader international response in the field, often in parallel to humanitarian assistance with a view to enhance the link between relief, rehabilitation and development (LRRD) or around CSDP missions, with a view to furthering the political aims of these EU interventions.

The **IfS ‘crisis response’ component**, under Article 3 of the IfS Regulation, represents the bulk of the budget (€1.4 billion for the period 2007-2013) to provide assistance in response to crises or emerging crises. IfS interventions can be mobilised faster than mainstream development instruments because decisions can be adopted by accelerated procedures as there are no programming requirements, and - for amounts up to €20 million - there is no requirement to receive the opinion of a management committee.

The IfS operates across the nexus between security and development and is designed as a complementary instrument to the mainstream geographical and thematic EU external action instruments (IPA, ENPI, DCI, EDF, EIDHR), when these instruments cannot offer an appropriate and timely response to a given crisis. The Instrument is not meant to intervene for essentially humanitarian or military purposes, but can otherwise be used in the wide field of conflict prevention, crisis response and peace-building.

Technical and financial aid to respond to a crisis or emerging crisis covers a wide range of activities, from support for the development of democratic, pluralistic state institutions, and an independent judiciary, good governance and law and order, to support for international criminal tribunals and *ad hoc* national tribunals, truth and reconciliation commissions, the promotion of independent and pluralist media, aid for the victims of the illicit use of firearms, support to relieve the impact on the civilian population of anti-personnel landmines, unexploded ordnance or explosive remnants of war, etc.

The IfS is also being used to support the EU involvement in the preparation of the Post disaster Needs Assessment (PDNA) and the Post Conflict Needs Assessment, in conjunction with the UN and WB. (refer to Annex 1).

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| **Highlights**   * the Community, within the respective competences of its institutions, will develop a comprehensive prevention approach to State fragility, conflict, natural disasters and other types of crises, to which goal this Regulation should contribute.’ * in a situation of crisis or emerging crisis, (the IfS seeks) to contribute to stability by providing an effective response to help preserve, establish or re-establish the conditions essential to the proper implementation of the Community's development and cooperation policies’ * Technical and financial assistance … shall cover the following areas: …(e) support for measures necessary 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 and the establishment of the minimum conditions necessary for sustainable social development…(m) support for socio-economic measures to promote equitable access to and transparent management of natural resources in a situation of crisis or emerging crisis….(n) support for socio-economic measures to address the impact of sudden population movements, including measures addressing the needs of host communities in a situation of crisis or emerging crisis… (p) support for measures in response to natural or man-made disasters and threats to public health in the absence of, or to complement, Community humanitarian assistance.[[58]](#footnote-58) * Community assistance under this Regulation shall be implemented through the following measures: (a) Exceptional Assistance Measures and Interim Response Programmes; (b) Multi-country Strategy papers, Thematic Strategy Papers and Multi-annual Indicative Programmes; (c) Annual Action Programmes; (d) Special Measures. |

The IfS has proven **flexible and rapid** in its operating modalities, as its time-bound “exceptional assistance measures” (up to 18 months with the possibility of a 6 month extension under certain conditions) are **not programmable** but intervene in response to a man-made crisis or a major natural disaster. This absence of programming requirements (and related ‘comitology’ procedure) markedly reduces the lead time between early identification and financing decision to some two to three months as compared to well over a year in the case of programmed instruments.

As regards assistance in the context of stable conditions for cooperation, the fields concerned cover pre- and post-crisis capacity building, threats to law and order, the security of individuals, critical infrastructure and public health. The aim is to strengthen the capacity of the law-enforcement judicial and civil authorities involved in the fight against terrorism, organised crime and drug trafficking, to respond to threats concerning international transport, to public health, such as epidemics with a potential trans-national impact, and to improve risk mitigation and preparedness relating to chemical, biological, radiological and nuclear materials or agents.

In theory, the IfS also seem as the ideal ‘bridging’ instrument that complements actions financed under the humanitarian and development instruments.

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[*Regulation (EC) No 1717/2006 of the Parliament and of the Council of 12 November 2006 establishing an Instrument for Stability*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:327:0001:0011:EN:PDF)*.*

*The Instrument for Stability (IfS) Guidance Note 2010* **Comment: Need Hyperlink**

Extracts related to EC interventions in situations of fragility and transitionto a state of resilience

The introductory remarks include reminders of EU policies: ‘European consensus on Development’, LRRD and Humanitarian**:**

***No.4*** The ECD states that the Community:

*“will develop a comprehensive prevention approach to State fragility, conflict, natural disasters and other types of crises, to which goal this Regulation should contribute.”*

***No.7***includes reminder that:

*“Post-crisis stabilisation requires a sustained and flexible engagement from the international community, in particular in the first years after a crisis, on the basis of integrated transition strategies.”*

***No.9***Includes reminder that:

*“The Resolutions of the European Parliament and the Conclusions of the Council following the Commission Communications on the Linking of Relief, Rehabilitation and Development emphasise the need to ensure effective bridging between operations financed from different Community financing instruments in the context of crisis.”*

***No.10***Includes reminder that:

*“In order to address the above issues in an effective and timely manner specific financial resources and financing instruments are required that can work in a manner complementary to humanitarian aid and long-term cooperation instruments. Humanitarian aid should continue to be delivered under Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid”*

***Article 1 Objective of IfS***

***2.(a)*** *in a situation of crisis or emerging crisis, to contribute to stability by providing an effective response to help preserve, establish or re-establish the conditions essential to the proper implementation of the Community's development and cooperation policies;*

***2.(b)*** *in the context of stable conditions for the implementation of Community cooperation policies in third countries, to help build capacity both to address specific global and trans-regional threats having a destabilising effect and to ensure preparedness to address pre- and post-crisis situations.*

***Article 2 Complementarity of Community assistance***

***2.1*** *Community assistance under this Regulation shall be complementary to that provided for under related Community instruments for external assistance. It shall be provided only to the extent that an adequate and effective response cannot be provided under those instruments.*

***Article 3 Assistance in response to situations of crisis or emerging crisis***

***3.1*** *Community technical and financial assistance in pursuit of the specific aims set out in point (a) of Article 1(2) may be undertaken in response to a situation of urgency, crisis or emerging crisis, a situation posing a threat to democracy, law and order, the protection of human rights or fundamental freedoms, or the security and safety of individuals, or a situation threatening to escalate into armed conflict or severely to destabilise the third country or countries concerned. Such measures may also address situations where the Community has invoked essential elements clauses of international Agreements in order to suspend, partially or totally, cooperation with third countries*

***3.2*** *Technical and financial assistance referred to in paragraph 1 shall cover the following areas* (inter alia):

***(e)*** *support for measures necessary 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 and the establishment of the minimum conditions necessary for sustainable social development;*

***(m)*** *support for socio-economic measures to promote equitable access to and transparent management of natural resources in a situation of crisis or emerging crisis;*

***(n)*** *support for socio-economic measures to address the impact of sudden population movements, including measures addressing the needs of host communities in a situation of crisis or emerging crisis;*

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

***Article 4 Assistance in the context of stable conditions for cooperation*** (areas of interventions)

***4.3*** *Pre- and post-crisis capacity building* (aimed at)*:*

***b)*** *improving post-conflict and post-disaster recovery.*

***Article 5 General framework for implementation***

*Community assistance under this Regulation shall be implemented through the following measures:*

* 1. *Exceptional Assistance Measures and Interim Response Programmes;*
  2. *Multi-country Strategy papers, Thematic Strategy Papers and Multi-annual Indicative Programmes;*
  3. *Annual Action Programmes;*
  4. *Special Measures.*

***Article 6 Exceptional Assistance Measures and Interim Response Programmes***

***6.2*** *The Commission may adopt Exceptional Assistance Measures in a situation of crisis as referred to in Article 3(1), as well as in exceptional and unforeseen situations as referred to in Article 3(3), where the effectiveness of the measures is dependent on rapid or flexible implementation. Such measures may have a duration of up to 18 months. Individual measures may be extended in duration by a further six months in the case of objective and unforeseen obstacles to their implementation, provided that the financial amount of the measure does not increase.*

***6.4*** *The Commission may adopt Interim Response Programmes with a view to establishing or re-establishing the essential conditions necessary for the effective implementation of the Community's external cooperation policies. Interim Response Programmes shall build on Exceptional Assistance Measures.*

Annex 1: Post Disaster Needs Assessment, PDNA and Post Conflict Needs Assessment, PCNA[[59]](#footnote-59)

PDNAs/PCNAs are an assessment of the impact of a crisis/ disaster that determines needs, identifies capacity and formulates a coherent Recovery/Reconstruction Plan. They are Government-led exercises, though the concerned government may request support from the UN, EU, WB.

PDNAs/PCNAs aim to fill the recovery/reconstruction gap after the humanitarian response but before longer term development programmes are possible, thus becoming a major tool of LRRD. They provide a strong platform for coordination of:

* + Technical/Financial assessments
  + Recovery/Reconstruction Planning
  + Funding (National/Donors)
  + Implementation (Lead agencies)

The EU’s objectives in participating in such assessments are to:

* Increase EU capacity in responding to crises/disasters
* Improve/harmonise existing UN/WB methodologies – making sure that EU concerns/ priorities are integrated
* Enhance specific country resilience to disasters Disaster Risk Reduction
* Improve conflict analyses and mainstream conclusions into EU assistance strategies

## Appendix 13: The financial Instrument for Humanitarian Aid

Introduction

Humanitarian aid is aimed first and foremost at the people in developing countries and covers not only short-term relief but also disaster prevention and reconstruction operations. Such operations last as long as is necessary and are targeted at the immediate requirements arising out of natural (e.g. flooding, earthquakes) or man-made disasters (e.g. outbreaks of war and fighting) and other exceptional comparable circumstances.

The financial regulation establishing the instrument for humanitarian aid dates from 1996 but the overall policy framework guiding the actions financed by the instrument is provided by the European Consensus on Humanitarian Assistance (Appendix 2). The 1996 Regulation governs the implementation of all EU operations providing humanitarian assistance to victims whose own authorities are unable to provide effective relief. This is an important aspect of external relations and, by focusing on supplies and services, the policy aims to prevent and alleviate suffering. A humanitarian aid operation can be initiated at the request of the Commission, NGOs, international organisations, Member States or beneficiary countries (Chapter 2, Article 6).

Humanitarian aid plays a critical role in linking relief, rehabilitation and development. The EC financial instrument regulating the objectives, principles, and types of actions provides ample possibility and opportunity to trigger synergies and coherence with other EC financial instruments, such as the Instrument of Stability, the Development CooperationIinstrument and the European Development Fund.

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| **Highlights**   * Humanitarian aid is aimed first and foremost at the people in developing countries and covers not only short-term relief but also disaster prevention and reconstruction operations. Such operations last as long as is necessary and are targeted at the immediate requirements arising out of natural (e.g. flooding, earthquakes) or man-made disasters (e.g. outbreaks of war and fighting) and other exceptional comparable circumstances. * EC Humanitarian aid can be used to carry out short-term rehabilitation and reconstruction work, especially on infrastructure and equipment, in close association with local structures, with a view to facilitating the arrival of relief, preventing the impact of the crisis from worsening and starting to help those affected regain a minimum level of self-sufficiency, by taking long-term development objectives into account. * *The Commission has three separate decision-making procedures available:* * **the delegation procedure**: to speed up the response to sudden emergencies, the Commission has delegated powers to the Director of the Directorate-General for Humanitarian Aid (ECHO) for primary emergency humanitarian decisions within certain limits (maximum amount of EUR 3 million, maximum duration of three months); * **the empowerment procedure**: the Member of the Commission responsible for humanitarian aid is empowered to take decisions relating to emergency operations up to EUR 30 million for a maximum of six months as well as non-urgent decisions up to a maximum of EUR 10 million.   + *These decisions are subject to a* ***consultation procedure*** *(cabinets, interdepartmental). Emergency decisions exceeding EUR 10 million and non-urgent decisions exceeding EUR 2 million require Humanitarian Aid Committee approval; and lastly,* * **the written procedure:** for all decisions not covered by the delegation or empowerment procedures. ***Comment: Cannot find this reference – it is not in the Instrument* per se*.*** |

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[*Council Regulation Concerning Humanitarian Aid (EC) No 1257/96 of 20 June 1996 (amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 & Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009)*](http://www.mzv.sk/App/wcm/media.nsf/vw_ByID/ID_3BDE427F1E6259F6C1257669003D6166_SK/$File/CouncilRegulation1257_96.pdf)

Extracts related to EC interventions in situations of fragility and transitionto a state of resilience

***Chapter 1 The objectives and general principles of the humanitarian aid***

***Article 2***

*The principal objectives of the humanitarian operations referred to in Article 1 shall be:*

1. *to save and preserve life during emergencies and their immediate aftermath and natural disasters that have entailed major loss of life, physical, psychological or social suffering or material damage;*
2. *to provide the necessary assistance and relief to people affected by longer-lasting crises arising, in particular, from outbreaks of fighting or wars, producing the same effects as those described in subparagraph, especially where their own governments prove unable to help or there is a vacuum of power;*
3. *to help finance the transport of aid and efforts to ensure that it is accessible to those for whom it is intended, by all logistical means available, and by protecting humanitarian goods and personnel, but excluding operations with defence implications;*
4. *to* ***carry out short-term rehabilitation and reconstruction work, especially on infrastructure and equipment, in close association with local structures, with a view to facilitating the arrival of relief, preventing the impact of the crisis from worsening and starting to help those affected regain a minimum level of self-sufficiency, taking long-term development objectives into account*** *where possible;*
5. *to cope with the consequences of population movements (refugees, displaced people and returnees) caused by natural and man-made disasters and carry out schemes to assist repatriation to the country of origin and resettlement where the conditions laid down in current international agreements are in place;*
6. *to ensure preparedness for risks of natural disasters or comparable exceptional circumstances and use a suitable rapid early-warning and intervention system;*
7. *to support civil operations to protect the victims of fighting or comparable emergencies, in accordance with current international agreements.*

***CHAPTER II Procedures for the implementation of humanitarian aid***

***Article 6***

*Humanitarian aid operations financed by the Community may be implemented either at the request of international or non-governmental agencies and organizations from a Member State or a recipient third country or on the initiative of the Commission.*

***Article 11***

1. *The Commission shall lay down the conditions for allocating, mobilizing and implementing aid under this Regulation.*
2. *Aid shall not be implemented unless the recipient complies with these conditions*

## Appendix 14 The Financial Regulations and Implementing Rules applicable to the EU budget

Introduction

The Financial Regulations (FR) apply to the implementation of financial resources from the multi-annual budget (2008-2013). They are important for the actual delivery of EC interventions in situations of fragility and transition.

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| **Highlights**   * In crisis management aid and humanitarian aid operations, **grants can be provided without being included in an annual work programme** (Art. 110) * **Eligible costs can be incurred prior to the date of submission of the grant application in duly substantiated exceptional cases,** as provided for in the basic act or in the case of expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations as provided in the implementing rules, (Art. 112) |

ACT(s)

[[COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002Q1605:EN:HTML)](http://www.bsrinterreg.net/programm/_downloads/EC_No_2002_1605_en_Budgetary_principles.pdf)*[); amended by](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002Q1605:EN:HTML)* [[COUNCIL REGULATION (EC, EURATOM) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002Q1605:EN:HTML)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:390:0001:0026:EN:PDF)

**Extracts related to EC interventions in situation of fragility and transition**

***CHAPTER 6 Principle of specification***

***Article 24***

1. *The budgetary authority shall take decisions on transfers of appropriations as provided for in paragraphs 2, 3 and 4, save as otherwise provided in Title I of part two.*
2. *In the case of proposals for transfers of appropriations relating to expenditure necessarily resulting from the Treaties or from acts adopted in accordance therewith, the Council shall, after consulting the European Parliament, act by a qualified majority within six weeks, except in urgent cases. …* ***…***
3. *In the case of proposals for transfers relating to expenditure other than that necessarily resulting from the Treaties or from acts adopted in accordance therewith, the European Parliament shall, after consulting the Council, act within six weeks, except in urgent cases. … ...*

***Article 26***

1. *Decisions on transfers to allow the utilisation of the reserve for emergency aid shall be taken by the budgetary authority on a proposal from the Commission. A separate proposal must be submitted for each individual operation.*
2. *In duly substantiated exceptional cases of international humanitarian disasters and crises, occurring after 15 December of the budgetary year, the Commission may transfer unused budgetary appropriations for the current budgetary year still available in the budget titles falling under heading 4 of the multiannual financial framework to the budget titles concerning the crisis management aid and humanitarian aid operations. The Commission shall inform the two branches of the budgetary authority immediately after making such transfers.*

***CHAPTER 2 Structure and presentation of the budget***

***Article 45***

1. *The Commission section of the budget shall include a reserve for emergency aid for third countries.*
2. *The reserve referred to in paragraph 1 shall be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in Articles 24 and 26.*

**TITLE IV IMPLEMENTATION OF THE BUDGET**

***Chapter 3 Financial actors***

***Section 4: Imprest Administrator***

***Article 63***

1. *Imprest accounts may be set up for the collection of revenue other than own resources and for the payment of small sums as defined in the implementing rules.*

*However, in the field of crisis management aid and humanitarian aid operations within the meaning of Article 110, imprest accounts may be used without any limitation on the amount while respecting the level of appropriations decided by the budgetary authority on the corresponding budget line for the current financial year.*

**TITLE VI GRANTS**

***CHAPTER 2 Principles***

***Article 110***

1. *Grants shall be subject to an annual work programme, to be published at the start of the year.*

*That annual work programme shall be implemented through the publication of calls for proposals, save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary or of the action leave no other choice for a given action, or where the beneficiary is identified in a basic act as recipient of a grant.*

*The first subparagraph shall not apply to crisis management aid and humanitarian aid operations.*

***Article 112***

1. *A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the grant is awarded.*

*In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases as provided for in the basic act or in the case of expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations as provided for in the implementing rules.*

*No grant may be awarded retrospectively for actions already completed.*

Implementing rules applicable to the EC Budget Financial Regulations

Introduction

The implementing rules detail the Financial Regulations and provide further guidance on how actions can be carried out in situations of transition. Each article in the Implementing Rules refers to the associated rules of the Financial Regulations. These rules are further developed by the EC headquarter services in practical guides (such as the PRAG), templates, instructions etc.

In particular, the implementing rules provide the basis for declaration of crisis and use of direct negotiation (single procurement) of contracts and grants in fragile and transitional situations.

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| **Highlights**   * Article 168 (2) establishes that a Crisis situation shall be understood to mean, for third countries, a situation posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:   + the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;   + the security of the European Union, peace-keeping and international security, promotion of international cooperation or developmentand strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms * In such Crisis Situations contracting authorities may use the negotiated procedure without prior publication of a contract notice, whatever the estimated value of the contract, for reasons of extreme urgency due to unforeseeable events (Art. 126) * In such Crisis Situations grants may be awarded without a call for proposalsonly in the following cases: (a) for the purposes of humanitarian aid and aid for crisis situations within the meaning of Article 186 (2) and(b) in other exceptional and duly substantiated emergencies. * The financing of a grant in full may be authorised in the following cases:   + humanitarian aid, including assistance for refugees, uprooted persons, rehabilitation and mine clearance; aid in crisis situations within the meaning of Article 168 paragraph 2; actions resulting from the implementation of financing agreements or actions with international organisations (for grants financed under the EU budget). The financing of an operation in full may be authorised if the Contracting Authority can substantiate that financing in full is essential in order to carry out the operation in question. |

ACT(s)

[COMMISSION REGULATION (EC, EURATOM) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:357:0001:0071:EN:PDF), *amended by* [Commission Regulation (EC, Euratom) No 1261/2005 of 20 July 2005](http://ec.europa.eu/europeaid/work/procedures/legislation/financial_regulation/documents/budget_modex_modification_2005_en.pdf) *and by* [COMMISSION REGULATION (EC, EURATOM) No 478/2007 of 23 April 2007](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:111:0013:0045:EN:PDF)*)* lays down detailed rules for the implementation of [Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:357:0001:0071:EN:PDF) *as amended by* [COUNCIL REGULATION (EC, EURATOM) No 1995/2006 of 13 December 2006](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:390:0001:0026:EN:PDF)

Extracts related to EC interventions in situation of Fragility and transition to a state of resilience

**PART ONE COMMON PROVISIONS**

***TITLE II BUDGETARY PRINCIPLES***

***CHAPTER 1 Principles of unity and budget accuracy***

***Article 3 Scope of pre-financing*** *(Article 5a of the Financial Regulation)*

1. Pre-financing shall be regarded as representing a significant amount within the meaning of Article 5a(2)(a) of the Financial Regulation if the amount is higher than EUR 50 000.

However, for external actions pre-financing shall be regarded as representing a significant amount if the amount is higher than EUR 250 000. For crisis management aid and humanitarian aid operations, pre-financing shall be regarded as representing a significant amount if it exceeds per agreement EUR 750 000 at the end of each financial year and is for projects of a duration of more than 12 months.

**TITLE IV IMPLEMENTATION OF THE BUDGET**

***CHAPTER 1 General provisions***

***Article 32a Preparatory measures in the field of the Common Foreign and Security Policy*** *(Article 49(6)(c) of the Financial Regulation).*

*The financing of measures agreed by the Council for the preparation of EU crisis management operations under Title V of the Treaty on European Union shall cover incremental costs directly arising from a specific field deployment of a mission or team involving inter alia personnel from the EU institutions, including high-risk insurance, travel and accommodation costs and per diem payments.*

**TITLE V PROCUREMENT**

***CHAPTER 1 General provisions***

***Section 3 Procurement procedures***

***Article 126*** ***Use of a negotiated procedure without prior publication of a contract notice*** *(Article 91 of the Financial Regulation)*

1. *Contracting authorities may use the negotiated procedure without prior publication of a contract notice, whatever the estimated value of the contract, in the following cases:*

***(c)*** *in so far as is strictly necessary where, for reasons of extreme urgency brought about by unforeseeable events not attributable to the contracting authorities, it is impossible to comply with the time limits set for the other procedures and laid down in Articles 140, 141 and 142;*

***Article 142*** ***Time limits in urgent cases*** *(Article 98(1) of the Financial Regulation)(Amendment 1)*

1. *Where duly substantiated* ***urgency renders impracticable the minimum time limits laid down in Article 140(3) for restricted procedures and negotiated procedures where a contract notice is published, contracting authorities may set the following time limits, expressed in calendar days****:*

***(a)*** *a time limit for the receipt of requests to participate which may not be less than 15 days from the date on which the contract notice is dispatched or 10 days if the notice is sent to OPOCE electronically;*

***(b)*** *a time limit for the receipt of tenders which may not be less than 10 days from the date of dispatch of the invitation to tender.*

1. *In restricted procedures and* ***fast-track negotiated procedures****, additional information on the specifications shall, provided it has been requested in good time, be communicated to all candidates or tenderers no later than four calendar days before the deadline for receipt of tenders.*

***CHAPTER 2 Provisions applicable to contracts awarded by the Community institutions on their own account***

***Article 158a: Standstill period before signature of the contract*** *(Article 105 of the Financial Regulation; Amendment 2)*

1. *The contracting authority shall not sign the contract or framework contract, covered by Directive 2004/18/EC,[[60]](#footnote-60) with the successful tenderer until 14 calendar days have elapsed.*
2. *The period set in the first subparagraph of paragraph 1 shall not apply in the following cases:*

*d) extreme urgency referred to in Article 126(1)(c).(Amendment 1 & 2)*

**TITLE VI GRANTS**

***CHAPTER 2 Award principles***

***Article 168* Exceptions to calls for proposals** (Art. 110(1) of the Financial Regulation; Amendment 1 & 2)

1. Grants may be awarded without a call for proposals only in the following cases:
2. *for the purposes of humanitarian aid, within the meaning of Council Regulation No 1257/96 (1) and aid for crisis situations within the meaning of paragraph 2;*
3. *in other exceptional and duly substantiated emergencies;*
4. *to bodies with a de jure or de facto monopoly, duly substantiated in the award decision;*
5. *to bodies identified by a basic act, within the meaning of Article 49 of the Financial Regulation, as beneficiaries of a grant;*
6. *Crisis situations shall be understood to mean, for third countries, situations posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:*

***(a)*** *the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;*

***(b)*** *the security of the European Union, peace-keeping and international security, promotion of international cooperation or development and strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms, in accordance with Article 11 of the Treaty on European Union and Article 3 of Council Regulation (EC) No 381/2001 (1).*

***Article 171 Retroactive effect for management of humanitarian aid and crisis situations*** *(Article 112 of the Financial Regulation)*

*In order to ensure that humanitarian aid operations and operations in crisis situations within the meaning of Article 168(2) are conducted efficiently, expenditure incurred by a beneficiary before the date of submission of the application shall be eligible for Community financing solely in the following cases:*

***(a)*** *where the expenditure relates to the constitution of stocks by the applicant for use in connection with the action for which the grant is awarded;*

***(b)*** *by way of exception and for properly substantiated reasons, where the financing decision and the grant agreement explicitly provide for this by setting an eligibility date earlier than the date for submission of applications.*

***CHAPTER 4 Payment and control***

***Article 180: Supporting documents for requests for payments*** *(Article 117 of the Financial Regulation; Amendment 1)*

*Depending on his analysis of risks, the authorising officer responsible may also waive the obligation of an external audit in the case of:*

***(a)*** *public bodies and the international organisations referred to in Article 43;*

***(b)*** *the beneficiaries of grants in connection with humanitarian aid and the Management of crisis situations, save in respect of payments of balances;*

***(c)******for payments of balances, beneficiaries of grants in connection with humanitarian aid who have signed a partnership framework agreement****, as referred to in Article 163, and who have in place a system of control offering equivalent guarantees for such payments.*

**PART TWO SPECIAL PROVISIONS**

**TITLE III** (TITLE IV OF THE FINANCIAL REGULATION) **EXTERNAL ACTIONS**

***CHAPTER 3 Procurement***

***Article 242: Use of the negotiated procedure for service contracts*** *(Article 167 of the Financial Regulation)*

***1.***For service contracts, contracting authorities may use the negotiated procedure with a single tender, after the Commission has given its agreement if it is not the contracting authority, in the following cases*:*

***(a)*** *where, for reasons of* ***extreme urgency*** *brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time limit for the procedures referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation cannot be kept;*

*For the purposes of point (a) of the first subparagraph, operations carried out in crisis situations as referred to in Article 168(2) shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concentration with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his decision regularly with regard to the principle of sound financial management.*

***Article 244: Use of the negotiated procedure for supply contracts*** *(Article 167 of the Financial Regulation)*

***1.*** *Supply contracts may be awarded by negotiated procedure with a single tender in the following cases:*

1. *where, for reasons of extreme urgency brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time-limit for the procedures referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation cannot be kept;*

*For the purposes of point (a) of the first subparagraph, operations carried out in crisis situations as referred to in Article 168(2) shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concertation with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his decision regularly with regard to the principle of sound financial management.*

***Article 246: Use of the negotiated procedure for works contracts*** *(Article 167 of the Financial Regulation)*

1. *Works contracts may be awarded by negotiated procedure with a single tender, after the Commission has given its agreement if it is not the contracting authority, in the following cases:*
2. *where, for reasons of extreme urgency brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time-limit for the procedures referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation cannot be kept.*

*For the purposes of point (a) of the first subparagraph, operations carried out in crisis situations as referred to in Article 168(2) shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concertation with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his decision regularly with regard to the principle of sound financial management.*

***CHAPTER 4 Grants***

***Article 253: Financing in full*** *(Article 169 of the Financial Regulation)*

***1.*** *By way of derogation from the co-financing requirement in connection with grants, referred to in Article 109 of the Financial Regulation, the financing of an action in full may be authorised in the following cases, save where prohibited by the basic act:*

***(a)*** *humanitarian aid, including assistance for refugees, uprooted persons, rehabilitation and mine disposal;*

***(b*** *aid in crisis situations within the meaning of Article 168(2);*

***(c)*** *actions for the protection of the health or fundamental rights of peoples;*

***(d)*** *actions resulting from the implementation of financing agreements with third countries or actions with international organisations within the meaning of Article 43;*

## Appendix 15: Mid Term Reviews of development programming

Introduction

The Mid Term Reviews of EC country and thematic strategy papers is a crucial phase of the programming process which should improve the usefulness of CSPs and thematic strategy papers as tools for guiding the future EC interventions in a given country.

The MTR guidelines provide a general approach to the performance and needs based reviews which incorporate a fair amount of possibility to adapt, change and update the CSP so that it is based on the national context and thus provides a basis for analysing and assessing, whenever relevant, post-conflict and transition measures.

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| **Highlights**   * The 2010 Mid Term Review should, where appropriate adapt the CSP/RSPs including analysis and assessment of the state-building priorities brought about by situations of fragility, and the need to address the root causes of insecurity and conflict. * The MTR guidelines state that joint programming, leading to more concentration, enhanced complementarity and division of labour, must not result in donor gaps (notably in the social sectors and in linking short term relief, rehabilitation and long term development - LRRD). * Concentration of EDF aid is a key principle applied throughout the programming of CSP/RSPs but the MTR guidelines states that in situations of fragility or where a country is a donor orphan, there could be valid reasons for a wider spread of activities in order to avoid gaps or orphan sectors in external aid. * The 2010 MTR should take into account situations of fragility and of increasing risk of natural disasters as a result of climate change. Special attention should be given to food security and LRRD situations, including preventive disaster risk reduction measures taken or envisaged. The articulation between short term relief, medium term rehabilitation and long term development interventions and the prospects for future funding must be taken into account knowing that ECHO has no mandate to maintain its presence beyond the relief and early rehabilitation phases. |

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1. [*THE 2009-2010 MID-TERM REVIEW EXERCISE: FRAMEWORK FOR ASSESSING REVISED STRATEGY AND PROGRAMMING DOCUMENTS*](http://ec.europa.eu/development/how/iqsg/index_en.cfm)
2. [*Guidelines for the 10th EDF Mid Term Review of ACP Country Strategy Papers (2009) Brussels, 19th December 2008 iQSG/ D(2008)*](http://www.delago.ec.europa.eu/ao/novidades/MTRguidelines_EN.pdf)

**Extracts related to EC interventions in situations of Fragility**

* 1. ***THE 2009-2010 MID-TERM REVIEW EXERCISE***

1. **THE MID TERM REVIEW ASSESSMENT: THE FOUR KEY REQUIREMENTS**
   1. **Main political, economic, social and environmental developments in the country**

The first MTR criterion is to “*keep the strategy* ***up-to-date with developments in the country*** *brought about by internal, regional or external events, including the Poverty Reduction Strategy Process where it exists*.

*In this regard, strategy and programming documents must address any significant changes in:*

* *The political situation, including any significant changes of setting or context, regionally or internationally, that could have an impact on co-operation between the Community and the country concerned. … Similarly, the security/development nexus is assuming an ever-increasing importance in our relations with many third countries, particularly in the context of conflict prevention, democracy, rule of law and respect for human rights and fundamental freedoms.*

***C. EDF MTR guidelines***

**I. PRESENTATION OF THE MID TERM REVIEW 2010**

***1.2* General objectives of the MTR**

*The MTR has the following main objectives:*

*Adapt, where appropriate, the strategies:*

***v)*** *the state-building priorities brought about by situations of fragility, and the need to address the root causes of insecurity and conflict*

***I.5.2 Special considerations***

**Paragraph 1:** *Long term trends in development may be jeopardised by exogenous shocks such as natural disasters, exceptional impact of the recent volatility in food and energy prices or the impact of the present economic and financial crisis. More structural factors may also hamper progress, such as situations of (risk of falling back into) fragility which, despite political commitment to reform, may delay progress towards poverty reduction and the achievement of the key MDGs, due to weak institutional capacity and an unfavourable environment.*

***I.5.3 Aid effectiveness in the MTR process***

*The MTR addresses aid effectiveness (focusing on development results and the active participation of the local stakeholders). As a result of these reviews progress of two issues in particular stand out:*

* + 1. *joint programming, leading to more* concentration*, enhanced complementarity and division of labour, without leaving donor gaps (notably in the social sectors and in linking short term relief, rehabilitation and long term development - LRRD) when responding to the partner countries' needs and priorities; and*
    2. *an increased use of country systems (including, through more budget support where feasible and appropriate).*

**a. Concentration**

**Paragraph 1:** *… The NIP should be concentrated on a maximum of three sectors, excluding general budget support (GBS) and delegated cooperation arrangements where the EC becomes a silent partner 9. (footnote 9 reads: In situations of fragility or where a country is a donor orphan, there could be valid reasons for a wider spread of activities in order to avoid gaps or orphan sectors in external aid.*

***II. THE JOINT ANNUAL REPORT***

***II.1.1 The executive summary***

*The executive summary covers (*Inter alia*):*

* *a synthesis of the key political, economic, poverty-related, social and environmental evolutions and progress since the elaboration of the CSP, including ... of recent food and energy price evolutions and of the present financial and economic crisis, situations of fragility …*

**II.3 Overview of past and on-going cooperation**

***II.3.4 Other actions***

*Focus on alignment with national strategies, complementarity and coordination, subsidiarity with national programming and on development results. Activities to take into consideration include those funded through:*

1. ***Unforeseen needs:***

* *Humanitarian or emergency assistance (funded from the EDF B-envelope and/or ECHO): the causes of the emergency, response measures taken at national level and impact/results of this assistance should be reported.*
* *Other unforeseen needs funded from the B-envelope, notably debt relief, actions funded under the soaring food price programme (and the Food Facility adopted in 2008) and under FLEX.*

*Where appropriate, taking into account situations of fragility and of increasing risk of natural disasters as a result of climate change, special attention should be given to food security and LRRD situations, including preventive disaster risk reduction measures taken or envisaged, the articulation between short term relief, medium term rehabilitation and long term development interventions and the prospects for future funding, knowing that ECHO has no mandate to maintain its presence beyond the relief and early rehabilitation phases.*

***II.3.7 Aid effectiveness and joint programming***

* *Identify gaps or orphan sectors, as well as progress on improved complementarity of (EU-) instruments and donor actions, notably in situations of fragility.*

1. ***THE MTR PERFORMANCE ASSESSMENT OF THE A-ENVELOPE***

***III.1 General Methodology***

**Special considerations**

**Paragraph 2:** *These special considerations may include natural disasters, regional instability with spill over effects on the national economy, or situations of fragility, where the state is not willing or unable to deal with its basic functions and the social contract is broken.\* In these circumstances, countries may have very limited institutional capacity to implement reforms, even when they show commitment to reform, and/or the impact of these reforms may only translate very slowly and with long time lags into progress on its key development indicators. When assessing EC cooperation, account has also to be taken of situations where the Commission has faced constraints, notably as a result of exceptionally lengthy procedures and/or lack of capacity in Delegation.*

*\*Note AIDCO D(2009)1049 of 21.1.2009 identifies countries in situations of fragility where more flexible crisis procedures can be applied.[[61]](#footnote-61) For countries in that list, fragility should not be evoked automatically as a special consideration, applicable to all dimensions; should fragility be used as a special consideration in the assessment of one of the performance dimensions or for one of their underlying questions, its impact on this assessment still needs to be explained. Similarly, situations of fragility may also occur outside the list of countries identified for flexible procedures, but again, these cases will have to be carefully argued.*

**A-II MTR ASSESSMENT FICHES (TEMPLATES)**

**A-II.1 MTR ASSESSMENT FICHE (TEMPLATE) ON THE GOVERNANCE SITUATION**

Specific methodology

***Key question:***

***To what extent has the Governance Action Plan been implemented and the governance situation improved since the adoption of the CSP?***

***Underlying questions:***

***2.***Based on the (where appropriate updated) governance profile, to what extent has the governance situation improved?

*The assessment:*

*The update of the governance profile will be decided by the Delegation in consultation with the locally represented EU Member States. The focus of a possibly update should be on the trends over recent years. While the template of the governance profile has not changed, there might be a need to better take into account "broader political and economic factors including the relations between the State and society, which underpin governance weaknesses" and "situations of fragility and where the security-development nexus is of utmost importance" throughout the different areas of governance identified in the governance profile.*

*When updating the governance profile and assessing trends, all available data, relevant indicators and external resources (KKM, Bertelsmann, Mo Ibrahim index, UN reports etc.) can be used as inputs in the analysis, as a complement to or benchmark for the EU assessment. Relevant special considerations, notably situations of crisis, post-crisis or fragility, should be explained and analysed in the updated profiles as they will serve to assess (positive or negative) trends and qualify the overall understanding of the governance situation.*

## Appendix 16 The Governance Incentive Tranche in EC Development programming

Introduction:

The governance profile is a programming tool. Its main objective is to help identify specific areas of cooperation (weaknesses) and agree on benchmarks and targets for reform (Government commitments). It will help to assess the extent to which commitments undertaken by a partner country are relevant, ambitious and credible for the “incentive tranche”.

The incentive tranche is an additional allocation which tops up the initial allocation and is in principle allocated to the sectors already identified in the NIP/RIP on the basis of the principles of unity of programming, of concentration and of complementarity among donors.

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| **Highlights**   * The (governance) profile, to be updated regularly, should be done for all country situations including: effective and stable partnerships; difficult partnerships and fragile states; and, post-conflict situations. * When assessing the governance action plan, special attention shall be given to countries coming out of a crisis or in a situation of fragility. |

ACT:

[The governance profile - explanatory note and template (Annex 1)](http://ec.europa.eu/development/icenter/repository/ACP_governance_profile_explanotev2_en.doc)*;* and the [Governance incentive tranche – Methodology (EC staff working paper)](http://ec.europa.eu/development/icenter/repository/ACP_governance_incentivetranche_methodologyv2_en.doc)

Extracts related to EC interventions in situations of transition

**Governance Profile**

**Annex 1: Aid allocation criteria for the geographic cooperation with the ACP countries in the framework of the 10th European Development Fund covering the period 2008-2013**

**1. NATIONAL INDICATIVE PROGRAMMES (A-ENVELOPES)**

***1.2. Governance incentive tranche***

**Quantification of the incentive tranche**

*When assessing the governance action plan, special attention shall be given to countries coming out of a crisis or in a situation of fragility. The scope and the depth of the problems to address are so broad that numerous fields of governance can be considered as relevant, even though some issues may deserve more attention than others. While the ambition of the governance plan of action may appear weak or intermediate in absolute terms, they may be ambitious in relative terms, taking into account a particularly difficult and challenging environment, and merit specific support. Similarly, while the internal consistency and credibility of such a plan may appear disappointing, allowance has to be made for the context of structural fragility within which the governance action plan will have to be implemented.*

**Annex 2 Explanatory Note**

**Paragraph 2:** *The governance profile is a programming tool. Its main objective is to help identifying specific areas of cooperation (weaknesses) and agreeing on benchmarks and targets for reform (Government commitments), or on sectorial performance indicators, if governance is a focal area. It will help to assess the extent to which commitments undertaken by partner country are relevant, ambitious and credible for the “incentive tranche”.*

***Paragraph 4:*** *The (governance) profile, to be updated regularly, should be done for all country situations including, effective and stable partnerships, difficult partnerships and fragile states, post-conflict situations.*

###### 

## Appendix 17: Integrated Transition Strategies in EC development programming

Introduction

This QSG fiche on integrating transition strategies in EC development programming was elaborated in the early stages of the 2008-2013 programming of CSP/RSPs.

The programming fiche provides specific support to EC delegations and EC headquarter services on how best to take account of issues linked to EC interventions in situations of transition and the integration of relief, rehabilitation and development. It complements the above-mentioned general programming guidelines by specifically targeting requirements in situations of post-crisis and/or chronic instability.

|  |
| --- |
| **Highlights**   * In particular, transition should apply to those countries where ECHO has foreseen an exit strategy. * **Very close liaison with ECHO will be essential** in the initial programming or programming revision process. * The transition strategy, which should be based on a realistic analysis of the crisis situation, will attempt to define strategic orientations, objectives and priorities for a foreseeable period (which will inevitably be shorter or longer depending on the natureand gravity of the crisis), **linking and integrating in a complementary way different interventions and instruments**. In most cases, indeed, there will be **no chronological transition between different instruments** but simultaneous funding**.** * In countries where the crisis occurs once a Country Strategy Paper and a work programme already exist (the majority of cases), **the CSP will still remain the main reference document for EC assistance, but will need an *ad hoc* review setting up a transition strategy,** with special measures contributing to the establishment or restoration of the essential conditions for the implementation of medium, long-term development cooperation. |

ACT

* 1. Communication from the Commission to the Council and the European Parliament. Increasing the impact of EU aid: a common framework for drafting country strategy papers (CSPs) and principles towards joint multi-annual [programming](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0088:FIN:EN:PDF)
  2. [Programming Guide for Strategy Papers: Programming Fiche. Integrated transition strategies (October 2008)](http://ec.europa.eu/development/icenter/repository/F32_LRRD_fin_en.pdf)

1. Extracts related to EC interventions in transitions (EC communication)

***2. CHAPTER 2: COUNTRY DIAGNOSIS***

***2.1. Analysis of the political, economic, social and environmental situation in the partner countr*y**

*This analysis should serve to identify the type of partnership: efficient, difficult/fragile state, post-conflict.*

*Accordingly, in fragile states, post-conflict countries and specific cases of countries that have yet to achieve “structural stability” or are showing signs of increasing instability, greater attention should be given to analysing measures taken to ensure security and stability, including conflict prevention and management, post-conflict intervention strategies (demobilisation, disarmament, re-integration (in particular of women and child soldiers), rebuilding, humanitarian mine clearance, support for action against illegal arms trafficking and dissemination of small arms and light weapons, etc.), and the introduction of the rule of law and democracy (including broader participation of civil society and a more equitable distribution of power). The issues of transition and LRRD will have to be taken into account.*

* 1. ***Analysis of the viability of current policies and the medium-term challenges***

*……. This principle of ownership should be adapted in the event of difficult partnerships or post-crisis situations in particular, and alternative approaches should be sought (shadow alignment, work with civil society, etc.). ………*

1. ***Programming Guide for Strategy Papers***

***Programming Fiche***

***Integrated transition strategies. Date: October 2008***

1. ***DEFINITION OF THE CONCEPT***

*The design of integrated transition strategies in early recovery builds on Commission efforts to define an approach on the Linking of Relief, Rehabilitation and development (the LRRD concept).* ***It defines the need to fill the gaps resulting from the difference between humanitarian aid and development cooperation in terms of objectives, procedures, partners and type of actions****. It should aim at rebuilding institutional capacities, essential infrastructure and social services, increasing food security and providing sustainable solutions for refugees, displaced persons and the general security of citizens. However, while the traditional LRRD approach assumed to a certain degree a linear order with humanitarian assistance coming first and development assistance taking over, it is now accepted that the early recovery and* *development cooperation phase may start much earlier in parallel to humanitarian assistance and planning has to start even in the first moments of an emergency.*

*In the* ***“European Consensus”*** *the EU has made a commitment to promote and apply the principle of linkage between emergency aid, rehabilitation and long-term development in crises and post-crises situations. The policy framework on LRRD has been put in place with the 2001 Communication:* ***COM(2001)153 – Linking Relief, Rehabilitation and Development – An assessment.*** *An Inter-service Group was established in February 2003 to take stock of the follow-up of the Commission Communication. The exercise of the Inter-service Group resulted in some* ***practical recommendations*** *aiming at improving the working methods within the involved Commission services to ensure an effective transition from emergency aid to the normal development co-operation cycle.”*

1. **TAKING ACCOUNT OF THE CONCEPT IN THE ANALYSIS OF THE COUNTRY’S** **SITUATION**

*The early recovery transition approach/LRRD should apply to partner countries that:*

* *are involved in conflicts and where a transition phase can be envisaged soon; or*
* *are in a transition phase between war, rehabilitation and the normal development process; or*
* *-are emerging from a major natural disaster.*

***In particular, transition should apply to those countries where ECHO has foreseen an exit strategy.***

***It is not proposed that the strategic programming approach should simply be abandoned for partner countries falling within the above mentioned categories. Instead, integrated transition strategies comprising at the same time political responses and financial support appropriate to the changing needs should be developed.***

*The starting point should be the most up-to-date analysis of the in-country situation carried out by the appropriate international organisation or by the Commission’s services, in co-ordination with MS and other donors, reinforced to the extent possible, by the views of civil society and other non-state actors. The analysis should also report on the EC’s response to the humanitarian crisis. In the initial programming or programming revision process for countries falling into, or considered likely to fall into this category,* ***very close liaison with ECHO will be essential****.*

1. **TAKING ACCOUNT OF THE CONCEPT IN THE COMMUNITY RESPONSE STRATEGY**

*“The transition issue has to become an integral part of the CSP in countries where crises and emergencies, or the potential for them exists, particularly where ECHO is active and/or has planned an exit strategy. Strategic planning for early recovery should be initiated at the earliest stages of a crisis. A long-term perspective must be adopted as soon as possible and should ideally also influence the design of the emergency intervention so as to influence their nature and facilitate the transition to medium and long-term development.*

*The transition strategy, which should be based on a realistic analysis of the crisis situation, will attempt to define strategic orientation, objectives and priorities for a foreseeable period (which will inevitably be shorter or longer depending on the nature and gravity of the crisis),* ***linking and integrating in a complementary way different interventions and instruments****. In most cases, indeed, there will be* ***no chronological transition between different instruments*** *but simultaneous funding****.***

*To establish a coherent link between relief and development,* ***joint planning and co-ordination with all actors involved*** *is required from the outset of the crisis. This must include where possible a phasing-out process for ECHO's intervention. In particular, when ECHO and RELEX/DEV priorities for the country are different, the principles of the “3 C’s” – coordination, complementarity, coherence – should be explored among other donors.*

***Ownership*** *is of crucial importance for the sustainability of the process. Early recovery efforts should be aligned with* ***national priorities*** *to the extent possible and support national actors in strategic planning and coordination of early recovery. Such support should be rendered through effective co-ordination and the broadest possible partnership between national actors, the donor community, regional organisations, NGOs and, as appropriate, the private sector. Case studies and evaluations have clearly demonstrated that continuous internal and external co-ordination both at field and HQ level is a key to the success of integrated transition/LRRD.*

*In countries where the crisis occurs once a Country Strategy Paper and a work programme already exist (the majority of cases), the CSP will still remain the main reference document for EC assistance, but will need an ad hoc review setting up a transition strategy, with special measures contributing to the establishment or restoration of the essential conditions for the implementation of medium, long-term development cooperation.*

*States in transition find themselves usually in an overall fragile situation. See on this the special programming fiche that points in particular at the necessary coherence between the different actors and instruments, both at EU and international level.”*

1. ***USEFUL LINKS FOR MORE INFORMATION***

* [*Linking Relief, Rehabilitation and Development – An Assessment – COM(2001)153 final – EN - FR*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0153:FIN:EN:PDF)
* [*Report and operational conclusions of the LRRD/DPP Interservice Group*](http://dgroups.org/file2.axd/1a850ece-20a5-484f-a6e7-0bd38e38e546/LRRD-DPP_REPORT.pdf)
* [*Website iQSG – Fragile States*](http://ec.europa.eu/europeaid/what/development-policies/intervention-areas/governance/fragile_states_en.htm)

## Appendix 18: Identification and Formulation of EC external assistance in Transition Situations

Introduction

Identification of specific interventions in situations of transition is mostly done by EU Delegations. A standard approach exists and at the end of the identification phase EC headquarters should be briefed on the progress achieved in identifying a planned project or programme. The information to be provided is consolidated in an Identification Fiche (IF), where the relevance and likely feasibility is demonstrated.

At this stage, quality support is provided to orientate further preparatory work during the formulation phase.



**Action**

**Fiche(s)**

**Financing Agreement**

**Annual Action Programme (AAP)**

**Identification**

**Fiche(s)**

**Relevant Document(s):**

The templates are on the Intranet (Devco Companion):

<http://www.cc.cec/dgintranet/europeaid/contracts_finances/guides/companion/financing_decisions_and_agreements/index_en.htm>

* Identification fiche for Sector Policy Support Programme incl. guidance for completion
* Identification fiche for stand-alone Project incl. guidance for completion
* Support to Sector Programmes covering the three financing modalities:
* Sector Budget Support, Pool Funding and EC project procedures. July 2007
* Identification fiche for General Budget Support incl. guidance for completion
* The GBS Road Map General Budget Support Guidelines – Annex 3.1 (ver 2.0)

**Annual Action Programmes in Fragile Situations**

The Annual action programmes (AAPs) were introduced by the new financial instruments of EC external assistance for 2007-2013 and by the new Regulations governing the 10th EDF. These documents introduced the principle of a single decision for all projects financed under a country, regional or thematic programme during the same year. This decision is presented to the member states Committee and the college in the form of a Single AAP. The AAP is composed of the Action Fiche for each programme or project and complemented by a memorandum to college and member states.

The forward planning, timeframes and comprehensive nature of the AAPs apply to standard design processes but a specific procedure allows for rapid interventions in situations of transitions.

|  |
| --- |
| **Highlights:**   * The standard templates used for and in the context of the Annual Action programmes do not contain specific guidance, assistance or suggestions on interventions in situations of crisis. * Only exceptionally the implementation of these programming documents would be carried out on the basis of *ad hoc* decisions. * It is also possible to adopt special measures outside the scope of the programming documents in the event of unforeseen and, as the case may be, duly justified needs or circumstances (e.g. articles 23 DCI, 13 ENPI and 8 of the Regulation on the implementation of the 10th EDF). * The responsible authorising officer can introduce non substantial changes to the decision, namely adjustment of the budget of an administrative or technical nature, without the prior consultation of the committee or the approval of the Commission. This flexibility includes the possibility to increase the maximum amount and duration of the action by 20%. |

**The decision Process and alternatives in Crisis situations**

See Fig. 11

ID

Formulation

ID

Formulation

**Normal Process**

AAP

NIP

**Adoption F**inancing **D**ecision **(FD)**

ID

ID

Formulation

Approval QSG

Approval QSG

See Fig. 11

**Ad hoc decision**

Formulation

ID

NIP

**Adoption F**inancing **D**ecision **(FD)**

Approval QSG

Approval QSG

**(Outside AAP)**

See Fig. 11

**Special Measures**

Formulation

ID

**Adoption F**inancing **D**ecision **(FD)**

Approval QSG

**(Outside AAP & NIP)**

**Once Decision is taken there is a Flexibility of 20% in amount and time without Derogation**

Acts

***Templates for[[62]](#footnote-62):***

* *Action Fiche Call for proposals (2009)*
* *Action Fiche General budget support (2009)*
* *Action Fiche for stand-alone projects (2009)*
* *Action Fiche for Sector Policy Support Programme (2009)*

**Technical and Administrative Provisions for:**

* Centralised managed programmes
* Budget support
* Decentralised managed projects
* Sector Policy support programmes
* Commission Decision of Annual Action Programme financed from the general budget of the EU
* Commission Decision of Annual Action Programme financed from the 10th European Development Fund

Aidco note of 28/10/2009(reference AIDCO ADONIS D(2009 321483). Subject: update of the templates for (Annual) Action Programmes, serving as financing proposals and financing decisions. **Hyperlink**

Extracts related to interventions in situations of Fragility and transition

*The changes in the decision making process resulting from the new instruments and the 10th EDF has substantial consequences for the planning of the preparation process for new actions. More explicitly, planning will have to be made over a period of time extending to 24 months in order to ensure that projects and programmes are prepared in-depth and in a way to ensure appropriate quality, integrating fully the need for result oriented design and taking into consideration the time periods necessary for each stage of the process. Also to ensure that the very large part of the commitments can be made in a timely fashion during the year, it is required that the AAP’s have passed the Committee by late summer/early autumn.*

**Ad hoc *decisions and special measures:***

*In principle, all foreseen (annual) actions for the implementation of the relevant multi-annual programming documents should form part of the AAP. Only exceptionally the implementation of these programming documents would be carried out on the basis of ad hoc decisions.*

*It is also possible to adopt special measures outside the scope of the programming documents in the event of unforeseen and, as the case may be, duly justified needs or circumstances (e.g. articles 23 DCI, 13 ENPI and 8 of the Regulation on the implementation of the 10th EDF).*

*The authorising officer concerned can, under its own responsibility and in full respect of the applicable financial rules, introduce non substantial changes to the decision, namely adjustment of the budget of an administrative or technical nature, within certain limits. Such non substantial changes would not require the prior consultation of the committee or the approval of the Commission. A similar provision is contacted in article 7(4) of the Regulation on the implementation of the 10th EDF. Note that following the 2009 Communication on streamlining financial rules and accelerating budget implementation to help economic recovery, this flexibility includes the possibility to increase the maximum amount and duration of the action by 20%.*

## Appendix 19: Financing decisions in EU external assistance in Transition Situations

Introduction:

This technical sheet covers the standard aspects related to financing decisions in EC external assistance and considers aspects relevant to interventions in situations of transition and post-crisis. Once the QSG has approved the documents necessary for the Annual Action Programmes (AF, memoranda) and DTA by the geographical director, the AAP is processed for the Commission financing decision. The following ways can be used to speed up preparations of interventions in situations of crisis:

* inter service consultation: fast track procedure;
* approbation of related committee: submission through written procedure;
* scrutiny of the European Parliament (strategy papers and programmes financed under the budget);
* process to SG and submission to commission for decision;
* submission FA or Special commitment (contribution agreement, administrative agreement) to director for signature

Approval Process from AAP/*ad hoc* decision/special measures to Financing Decision

***a) Draft* A**nnual **A**ction **P**rogram **(AAP)**

***Relevant committee***

***(Comitology)***

**Adoption F**inancing **D**ecision **(FD)**

***DG Other DGs College***

***(Internal (Inter-Service (Submission***

***b) Ad hoc* decision**

**c) Special measures**

***EP***

***(Scrutiny) for non-EDF***

***Consultation) Consultation) for adoption)***

**Highlights:**

1. ***Consultation inter services***: In case of manifest political urgency, the lead department can: (i) use the fast-track procedure in form of an inter-service coordination meeting convene at least 48 hour after the registration or (ii) launch a consultation in CIS-Net with a shorter time limit. Fast Track requires prior authorisation of the Secretariat General upon duly formal request, presence in the interservice consultation meeting of the departments most directly concerned by the measure, recording minutes of the meeting.
2. ***Comitology:*** Not specific conditions for adoption of strategic documents and multiannual programmes, however according to urgency, the chairman sets the time limit to enable the Committee to express its opinion on the draft proposed. On the implementing measures, the Committee's opinion can be obtained by written procedure with a response period in a minimum 15 working days. In urgency duly substantiated, the documentation necessary for the Committee’s opinion could be sent to the members 5 working days before the date of the meeting (or the response to the written procedure) or in extreme urgency, the chair can depart from the period requirement. The urgency should be duly substantiated in writing.
3. ***Parliament scrutiny (for strategic document and budget only):*** In urgency duly substantiated, the time for scrutiny could be shorten from the normal period (30 working days) shall start to run when the draft of measures has been submitted to Parliament in all the official languages.
4. ***Decision***: In case of decision taken through written procedure the adoption period can be shorten from at least 5 working days to 3 (accelerated written procedure) or less than 1 day (urgent written procedure).
   1. **Consultation inter services**

Act Comment: This link takes one to the Amendment NOT the main doc, so text not verified

Commission's [rules of procedure (C(2010)1200)](https://intracomm.ec.europa.eu/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_C_2010_1200_F_EN_DECISION_DE_LA_COMMISSION.pdf) and annexes detailing implementing rules *giving effect to the Commission's rules of procedure. The rules of procedure are supplemented by* [*implementing rules*](https://intracomm.ec.europa.eu/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_C_2010_1200_F_FR_ANNEXE2.pdf)*[[63]](#footnote-63) spelling out details of how they are to be applied in practice[[64]](#footnote-64).*

**Extracts:** *Rules giving effect to Article 23: Cooperation and coordination between departments*

**CHAPTER II COMMISSION DEPARTMENTS**

***23-4. Formal inter-service consultation***

***23-4.2*** *The departments consulted shall be given at least ten working days in which to submit their comments.*

*This period shall be increased to a minimum of fifteen working days if the total length of the documents submitted for consultation, including the impact assessments and the Commission department working papers, exceeds twenty pages.*

*Unless the Commission specifically provides otherwise or all the departments concerned, including the Secretariat-General, agree, this period may be shortened in genuine emergencies only, and not, therefore, in order to catch up on an administrative delay.*

***23-5. Alternatives to formal written inter-service consultation***

***23-5.1*** *The President may ask a group of Members to prepare the ground for the discussion of an initiative which may be raised at a subsequent meeting of the Commission.*

*He may decide that preparation by such a group counts as formal inter-service**consultation, provided that the Members of the Commission who are directly concerned in view of the nature of the matter in question are represented in the group. In this case, the presence of a representative of the Legal Service shall be required.*

*When drawing up a draft initiative the department responsible shall take care to involve the departments with a legitimate interest in the initiative beforehand, especially those which have to be consulted.*

***23-5.2*** *In addition, the Secretary-General may authorise the department responsible to consult the departments with a legitimate interest in an initiative at an interdepartmental meeting (‘fast-track’ procedure), provided that the urgency criteria are met. The fast-track procedure shall be requested and organised using the computer application provided for that purpose.*

*This oral inter-service consultation is then equivalent to formal written consultation, provided that the departments most concerned, notably those which must be consulted, are represented at the meeting or send their comments in writing before the meeting is held.*

*The documents submitted for consultation must reach the departments to be consulted at least 48 hours before the meeting.*

*The opinions expressed by the departments consulted at the meeting must be duly recorded in the interdepartmental meeting minutes, which must reflect the outcome of the consultation.”*

* 1. **Comitology**

In regard to external aid, the comitology procedure involves ***management committees***. The decision-making in comitology takes place in two phases, where the Member States express their position on: Country Strategy Paper (CSP) / Multi-annual Indicative Programme (MIP) and the Annual Action Programme (AAP), Special Measures and amendments. The votes are weighted in the same manner for all the Committees (Article 205(2) and (4) of the Treaty) except for the EDF Committee (Article 8 of the Internal Agreement).

ACT:

Committees are created not by the Comitology Decision but by a basic act, within the respective legal framework[[65]](#footnote-65).

* ***DCI committee*** established by ***Article 35 of the DCI Regulation*** 1905/2006. Harmonised procedure for DCI committees was adopted by a ***Joint Committee on 9 December 2009[[66]](#footnote-66) in “Rule of Procedure for the DCI committee”.***
* ***EIDHR Committee*** established by the article 17 of the EC Regulation (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide). Rule and Procedure for the Democracy and Human Rights (EIDHR) Committee.

***ENPI Committee*** established by the article 26 of the REGULATION (EC) No 1638/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument,[[67]](#footnote-67). Rule and Procedure for the European Neighbourhood Policy Instrument (ENPI) Committee.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:310:0001:0014:EN:PDF>

* ***IFS Committee*** established by the article 22 of the Council Regulation (EC) No 1717/2006 of 15 November 2006, laying down general provisions establishing a Financing Instrument for Stability (IFS Regulation). Rule and Procedure for the Financing Instrument of Stability (IFS) Committee.
* ***EDF committee*** established by ***Article 8 of the Internal Agreement[[68]](#footnote-68)*** between the representatives of the Governments of the Member States, meeting within the Council, on the financing of Community aid under the multiannual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:247:0032:0045:EN:PDF>.

***Council Decision 2008/215/EC of 18 February 2008 adopting the rules of procedure of the European Development Fund Committee***[[69]](#footnote-69), also applicable to the EDF-OCT Committee (Art. 24 of the Association Decision. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:078:0001:0034:EN:PDF>

Extracts:

**Rule of procedure for the committee (DCI, EIDHR, ENPI, IFS[[70]](#footnote-70)):**

***The article[[71]](#footnote-71) dealing with adoption of strategy papers and multiannual indicative programmes*** *as well as any reviews (including ad hoc review) of the respective financing instrument refers to the article 4[[72]](#footnote-72) of the Council Decision 1999/468/EC which indicates that the Committee’s opinion on the draft proposed shall be obtained* *within a time limit set by the Committee chairman according to the urgency of the matter.*

***Article 3****: Documentation to be sent to Committee members*

***For the case of implementing programme[[73]](#footnote-73):***

1. *In urgent cases, and where the measures to be adopted must be applied immediately, the Chair may, at the request of a Committee member or on his or her own initiative, shorten the period laid down in the above paragraph to 5 working days before the date of the meeting. The case of urgency must be duly substantiated in writing by the Commission.*
2. *By way of exception in duly substantiated cases of extreme urgency (e.g. serious economic, social and political circumstances, natural disasters suffered by the recipient country, humanitarian crisis or other external circumstances of a similar nature, (requiring a very rapid reaction), the Chair may, at the request of a Committee member or on his or her own initiative, depart from the periods laid down in paragraphs 1 and 2 above.*

*If the placing of another point on the Agenda is requested during the course of a meeting, the approval of a simple majority of Committee members is required.*

***Article 9:******Written procedure***

1. *If necessary and justified, the Committee's opinion can be obtained by written procedure. To this end, the Chair shall send the Committee members the draft measures on which their opinion is sought, in accordance with Article 13 (§2)[[74]](#footnote-74).*

*Any Committee member who does not express his or her opposition or intention to abstain before the deadline laid down in the letter, is (automatically) considered to have given his or her tacit agreement to the draft measures; the response period must not be less than 15 working days.*

*In cases of urgency or extreme urgency, the deadlines stated in Article 3 (§2) and (§3) shall apply. The cases of urgency or extreme urgency must be duly substantiated in writing by the Commission.*

***2.*** *However, if at least one Committee member requests that the proposed measures be examined at a Committee meeting, the written procedure shall be terminated without result; the Chair shall then call a Committee meeting as soon as possible.*

***3.*** *The Commission, through the Committee Secretariat, informs the members of the Committee of the outcome of the written procedures in writing, as soon as they are closed.*

Rule and procedure for EDF committee:

*In case of the EDF, adoption of strategy papers and multiannual indicative programmes refers to the Article 11[[75]](#footnote-75) of the Council Regulation (EC) No 617/2007[[76]](#footnote-76))* *which indicates that the Committee’s opinion on the draft proposed shall be obtained within a time limit set by the Committee chairman according to the urgency of the matter but not exceeding 30 days.*

***Article 5: Documentation to be sent to Committee members***

***2.*** *In urgent cases, and where the measures to be adopted must be applied immediately, the Chair may, at the request of a Committee member or on his or her own initiative, shorten the period laid down in the above paragraph to 5 working days before the date of the meeting. The case of urgency must be duly substantiated in writing by the Commission.*

***3****. By way of exception in duly substantiated cases of extreme urgency (e.g. serious economic, social and political circumstances, natural disasters suffered by the recipient country, humanitarian crisis or other external circumstances of a similar nature, (requiring a very rapid reaction), the Chair may, at the request of a Committee member or on his or her own initiative, depart from the periods laid down in paragraphs 1 and 2 above.*

*If the placing of another point on the Agenda is requested during the course of a meeting, the approval of a simple majority of Committee members is required.*

***Article 11: Written procedure***

1. *If necessary and justified, the Committee's opinion can be obtained by written procedure. To this end, the Chair shall send the Committee members the draft measures on which their opinion is sought, in accordance with Article 13 (§2)[[77]](#footnote-77).*

*Any Committee member who does not express his or her opposition or intention to abstain before the deadline laid down in the letter is considered to have given his or her tacit agreement to the draft measures; the response period must not be less than 15 working days.*

*In cases of urgency or extreme urgency, the deadlines stated in Article 5 (§2) and (§3) shall apply. The cases of urgency or extreme urgency must be duly substantiated in writing by the Commission.*

***2.*** *However, if at least one Committee member requests that the proposed measures be examined at a Committee meeting, the written procedure shall be terminated without result; the Chair shall then call a Committee meeting as soon as possible.*

***3.*** *The Commission, through the Committee Secretariat, informs the members of the Committee of the outcome of the written procedures in writing, as soon as they are closed.*

**c) Parliament right of scrutiny[[78]](#footnote-78)**

The relevant basic act may stipulate that the measures are subject to scrutiny by the European Parliament ([co-decision or ordinary legislative procedure](http://ec.europa.eu/codecision/procedure/index_en.htm)). If this is the case, according to the manual of procedures of the Secretariat General, the European Parliament must receive the final draft of the work programme, following the official opinion by the relevant Committee, at least 1 month before it is submitted to the College for adoption.

The time for scrutiny (30 working days) shall start to run when the draft of measures has been submitted to Parliament in all the official languages. Where shorter time-limits apply (Article 5a(5)(b) of Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission) and in cases of urgency (Article 5a(6) of Decision 1999/468/EC). The time for scrutiny shall, unless the Chair of the committee responsible objects, start to run from the date of receipt by Parliament of the final draft implementing measures in the language versions submitted to the members of the committee set up in accordance with Decision 1999/468/EC.

Act

1. *COUNCIL DECISION of 17 July 2006 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (2006/512/EC);*

[*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:200:0011:0013:EN:PDF*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:200:0011:0013:EN:PDF)

1. COUNCIL DECISION of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:184:0023:0023:EN:PDF>

Extract: COUNCIL DECISION of 17 July 2006 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (2006/512/EC);

***Article 5a - Regulatory procedure with scrutiny***

***2.*** *The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. ….*

***5.*** *By way of derogation from paragraphs 3[[79]](#footnote-79) and 4[[80]](#footnote-80), a basic instrument may in duly substantiated exceptional cases provide:*

***a)*** *that the time-limits laid down in paragraphs 3(c), 4(b) and 4(e) shall be extended by an additional month, when justified by the complexity of the measures; or*

***b)*** *that the time-limits laid down in paragraphs 3(c), 4(b) and 4(e) shall be curtailed where justified on the grounds of efficiency.*

***6.*** *A basic instrument may provide that if, on imperative grounds of urgency, the time limits for the regulatory procedure with scrutiny referred to in paragraphs 3, 4 and 5 cannot be complied with, the following procedure shall apply:*

***a)*** *if the measures envisaged by the Commission are in accordance with the opinion of the Committee, the Commission shall adopt the measures, which shall immediately be implemented. The Commission shall without delay communicate them to the European Parliament and to the Council;*

***b)*** *within a time-limit of one month following that communication, the European Parliament, acting by a majority of its component members, or the Council, acting by a qualified majority, may oppose the measures adopted by the Commission, on the grounds that the measures exceed the implementing powers provided for in the basic instrument or are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality;*

d) Decision Comment: Same link to amendment not basic doc This should also link to Appendix 16

The rules of procedure govern the way the Commission works as a body. They define various procedures for adopting acts ([oral procedure](https://intracomm.ec.europa.eu/home/dgserv/sg/manupro/index.cfm?dochtm=otc_decispo&lang=#session.lang#&menu=#menu#), [written procedure](https://intracomm.ec.europa.eu/home/dgserv/sg/manupro/index.cfm?dochtm=otc_decispe&lang=en&menu=on), [empowerment procedure](https://intracomm.ec.europa.eu/home/dgserv/sg/manupro/index.cfm?dochtm=otc_dechabil&lang=en&menu=on) and [delegation procedure](https://intracomm.ec.europa.eu/home/dgserv/sg/manupro/index.cfm?dochtm=otc_decdeleg&lang=en&menu=on)).

Act

***Commission's*** [***rules of procedure (C(2010)1200)***](https://intracomm.ec.europa.eu/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_C_2010_1200_F_EN_DECISION_DE_LA_COMMISSION.pdf)and Rules giving effect to the Commission's rules of procedure. The rules of procedure are supplemented by [implementing rules](https://intracomm.ec.europa.eu/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_C_2010_1200_F_FR_ANNEXE2.pdf)[[81]](#footnote-81) spelling out details of how they are to be applied in practice. **Comment: Same link to amendment not basic doc**

As regards to implementation of external intervention, the written procedure is mainly used to complement the empowerment and delegation procedures.

**Extract: Annexe of the rules and procedure: *SECTION II – OTHER DECISION-MAKING PROCEDURES***

***Article 12: Decisions taken by written procedure***

***12-4 Time limits***

***12-4.3 Expedited written procedure***

*In accordance with rule 12-4.2[[82]](#footnote-82), the time limit for a written procedure may be shortened to not less than three working days from the date on which the document was distributed.*

*Expedited written procedures may be used only on condition that:*

* *it can be demonstrated that a shorter time limit is needed owing to unforeseen and exceptional circumstances, and the procedure is not being used as a means of catching up on an administrative delay;*
* *authorisation is given by the President, at the request of the Member or Members submitting the draft text.*

***12-4.4 Urgent written procedure***

*With the prior agreement of the President,* ***the time limit for a written procedure may be set by the Secretary-General at less than three working days to enable urgent measures to be adopted quickly****.*

*If possible the matter shall be discussed at a meeting of Heads of Cabinet.*

***12-10 Adoption of the decision***

***12-10.2*** *In exceptional circumstances the decision may be taken at a meeting of the Commission.*

***12-13 Language rules for written procedures***

***12-13.1*** *Documents for adoption by written procedure shall be distributed to Members of the Commission:*

* *in the languages stipulated by the President, taking account of Members’ minimum requirements; the President shall take a decision in exceptional circumstances (such as in the event of a major crisis, natural catastrophe or some other special circumstance) or in cases where these language versions are not available for reasons which can be duly substantiated; and*
* *in the language or languages required[[83]](#footnote-83) in particular for the purposes of the instrument's entry into force and its notification to those to whom it is addressed.*

## Appendix 20: The Signature of the Financing Agreement or other Agreements (Contribution or Administrative Agreements) in Transition Situations

**Introduction**

In the framework of the geographical instruments, most of EU external assistance is delivered via a signed Financing Agreements between the EU and a third party. Each project or programme implemented through a Financing Agreement thus offers the EC substantial flexibility in situations of (post) crisis and/or transition. In other situations, such as under Art 96 for EDF countries, contribution agreements and/or administrative agreements are signed directly with the implementing partners.

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| **Highlights**   * All standard EC Financing Agreements offer the possibility of extending the period of implementation in situations of crisis or transition * All standard EC Financing Agreements offer the possibility of introducing amendments to a Financing Agreement. This can be done and substantiated in situations of crisis and transitions * All standard EC Financing Agreements using decentralised cooperation enable the European Commission to take over the implementing tasks of a financing agreement * All standard EC Financing Agreements using decentralised cooperation enable the European Commission to suspend a Financing Agreement in situations of crisis. |

Document(s)

**Financing Agreements:**

<http://ec.europa.eu/europeaid/work/procedures/financing/financing_agreement/index_en.htm>

Extracts related to EC interventions in situations of transition

***1 Financing Agreements template (Models 2009) Applicable after the entry into force of the Lisbon Treaty***

***1.1 General conditions:***

***1.1.1*** *Centralised FA (model 2009 – Budget & EDF[[84]](#footnote-84))*

**Art. 4** offers the possibility of extending the period of implementation of a Financing Agreement in situations of crisis/transition:

**4.4** **In exceptional and duly substantiated cases, a request may be made for the extension of the operational implementation phase and correlatively of the period of execution. If the extension is requested by the Beneficiary, the request must be made at least three months before the end of the operational implementation phase and approved by the Commission before that latter date.**

***Art. 17*** *offers the possibility of introducing amendments to a Financing Agreement. This can be done and substantiated in situations of crisis and transitions:*

***17.1******Any amendment to the Special Conditions and Annex II to the financing agreement shall be made in writing and be the subject of an addendum.*** *17.2 If the request for an amendment comes from the Beneficiary, the latter shall submit that request to the Commission at least three months before the amendment is intended to enter into force, except in cases which are duly substantiated by the Beneficiary and accepted by the Commission.)*

***1.1.2*** *Decentralised FA (Model 2009 – budget & EDF[[85]](#footnote-85))*

Art. 4 offers the possibility of extending the period of implementation of a Financing Agreement in situations of crisis/transition:

4.4 **In exceptional and duly substantiated cases, a request may be made for the extension of the operational implementation phase and correlatively of the period of execution. If the extension is requested by the Beneficiary, the request must be made at least three months before the end of the operational implementation phase and approved by the Commission before that latter date.’**

***Art. 22*** *enables the European Commission to take over the implementing tasks of a financing agreement:*

***22.6*** *If the* ***Beneficiary ceases to satisfy the criteria laid down in Article 5 of the Special Conditions and without prejudice to Articles 23 and 24 of these General Conditions, the Commission may decide to retake the implementing tasks entrusted to the Beneficiary in order to continue the implementation of the project/programme on behalf of and for the account of the Beneficiary after written notification to it****.*

***Art. 23.1*** *enables the European Commission to suspend a Financing Agreement:*

*The Commission may suspend the financing agreement if the Beneficiary breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption.*

## Appendix 21: Implementation via programme estimates in Transition Situations

Introduction:

In most cases, the European Commission undertakes the financial implementation of 10th EDF resources by means of decentralised management with the ACP States, in accordance with the conditions set out in the revised Cotonou Agreement. The practical guide for programme estimates provides support to EC delegations and implementing parties whenever such EDF projects and programmes are implemented jointly with ACP governments.

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| **Highlights**   * The EC has the possibility of entering into direct service contracts with third entities in case it takes over implementing responsibilities of a PE * The rules allow the EC services to extend the N+3 rule in case it has taken over implementing powers of a PE |

Documents

**Programme Estimates:**

<http://ec.europa.eu/europeaid/work/procedures/financing/work_programmes/index_en.htm>

Extracts related to EC interventions in situations of transition

*In most cases, the European Commission undertakes the financial implementation of 10th EDF resources by means of decentralised management with the ACP States in accordance with the conditions set out in the revised Cotonou Agreement, based in particular on the sharing of responsibilities provided for in Article 57 of that Agreement (concerning guidelines for development finance cooperation) and in Articles 34, 35 and 36 of Annex IV to the Agreement (on agents responsible for the management and implementation of EDF resources).*

***Page 6:*** *For the EDF, programme estimates have to be used in case projects and programmes are implemented by direct labour. This implementation is authorised in the following circumstances:*

* *Exceptionally, if the National (or Regional) Authorising Officer is temporarily replaced by the European Commission Authorising Officer by delegation.*

***Page 12:*** *The EC has the possibility of entering into direct service contracts with third entities in case it takes over implementing responsibilities of a PE: ‘The service contract with the body concerned may never be concluded by the European Commission for and on behalf of the ACP State or States concerned. Except and if necessary, when the National (or Regional) Authorising Officer is temporarily replaced by the European Commission Authorising Officer by delegation.*

***Page 26:*** *The rules allow the EC services to extend the N+3 rule in case it has taken over implementing powers of a PE:* ***‘****For the 10th EDF, contracts and programme estimates that implement financing agreements must as a rule be concluded (signed by parties) within 3 years of the entry into force of the financing agreement, which means within 3 years of the date on which the financing agreement* was signed by the *last party. However - but only where management is decentralised or in case of temporary replacement of the National (or Regional) Authorising Officer by the European Commission Authorising Officer by delegation – where this rule cannot be complied with owing to the very nature of the project or programme to be funded, the Head of Delegation may send to Headquarters a duly substantiated derogation request.**It is essential that the derogation request be drawn up and sent as early as possible in the project or programme identification and preparation stage.*

## Appendix 22: Implementation via EC budget support in Transition Situations

Introduction

In the Communication "Towards an EU response to situations of fragility" (COM(2007) 643 final), the Commission committed itself to "improve its capacity to deliver budget support, taking into account the specific risks and expected benefits in fragile situations. Coordination with the World Bank, the IMF and the African Development Bank will be reinforced".

The EC headquarters have, through the elaboration of a specific annex, established a methodological approach to budget support in fragile situations (post-conflict, post-crisis).

The Commission considers that, in certain circumstances of fragility, political analysis may justify the provision of budget support as the most appropriate aid instrument for:

* avoiding serious deterioration of both the economic situation and the political equilibrium;
* underpinning stabilisation; and,
* strengthening the State's limited financial capacity to ensure at least a minimum provision of its basic functions.

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| **Highlights**   * **The preliminary political analysis will contribute to motivate and justify the need for BS in a specific country** **based on the definitions of crisis, emergency and post-emergency situations[[86]](#footnote-86)** * **In post-conflict / post crisis / fragile situations, eligibility to budget support will follow the same guiding principles as for other countries but with a differential interpretation insofar as these countries will also have to**: (i) Demonstrate that the "**ultra basic elements**" on public finance management are in place; (ii) Have **access to an IMF programme.** In the absence of such a programme, an assessment letter confirming that a stability oriented macro-economic policy is in place will be required from the IMF. (iii) **Demonstrate that a national policy or strategy is defined or in the process of being defined (instead of "is in place or under implementation") addressing the challenges of fragility or instability.** In this context relevant frameworks agreed with the international community to assist the country in addressing the challenges of instability will be considered. * **Budget support should, however, not be seen as the sole instrument, and should be built into an intervention strategy[[87]](#footnote-87) and accompanied by technical assistance, especially in the area of public finance management. Budget support should be regarded as a part of the EC stabilisation strategy.** * In order to assess progress in the implementation of the budget support programme, **an annual review will be carried out to reinforce the dialogue with the authorities, while keeping separate the political dialogue as such** (e.g. under article 8 for countries under the Cotonou Agreement). |

ACT:

*Aide budgétaire dans les situations de fragilité. Annexe méthodologique aux Lignes directrices pour la programmation et la mise en œuvre de l'aide budgétaire de la CE (Janvier 2007)* ***Comment: Eng version needed***

[Guidelines on the Programming, Design & Management of General Budget Support, Aid Delivery Methods, AIDCO DEV RELEX, June 2009](https://intracomm.ec.europa.eu/dgintranet/europeaid/activities/adm/documents/bsguide_ver_jan2007.pdf) **Comment: Cannot find extracts below in document**

Most relevant extracts related to EC interventions in situations of Fragility and transition to resilience

* Political and Risk analysis lead to opportunity and feasibility of Budget Support :

In situation of fragility, prior to assess eligibility for Budget Support, it is critical to **undertake a political analysis of the country situation**. This analysis will reveal the need for the use of this instrument, therefore "making the case" for budget support and highlighting its opportunity. **This preliminary political analysis will contribute to motivate and justify the need for Budget Support in a specific country**. It will also contribute to considering this key instrument **within the framework of a fragility mitigation strategy designed by the country, together with the International Community (Peace Building Commission, WB, IMF, Africa Union, Regional Organisations), that aims to support the country' exit from crisis and achievement of its stabilisation objectives.** The risk analysis, based upon the "risk and opportunity grid" examines the feasibility of budget support and helps identify mitigating mechanism(s) and appropriate conditionality.

**This political analysis also supports eligibility for the use of the flexible procedures based on the definitions of crisis, emergency and post-emergency situations as specified in Article 72 and 73 of the Cotonou Agreement and in Article 168(2) of the Implementing Rules of the EC Budget Financial Regulation.**

The political and risk analyses may highlight the opportunity and feasibility of budget support in a given fragile situation, and taking notably into consideration the eligibility to flexible procedures, leads to the decision to begin - or not - with budget support. Thereafter, the principles outlined in this document shall apply to assess budget support eligibility for countries in situations of fragility, and design the programme.

* Assessing Eligibility and Implementation of Budget Support in Fragile Situations :

Programmes can only be designed in cases where eligibility has been assessed positively. On PFM aspects, it will be verified that basic functions of a PFM system are in place to ensure transparent execution of public resources in accordance with an established legal framework (the "**ultra-basics elements**"). In doing so, and in accordance with the approach followed by other international donors, the Commission will focus on progress:

* *"In these contexts, improved public financial management performance (PFM) may be an outcome, rather than a pre-condition, of budget support, if the country has committed itself to an adequate program of PFM improvement and there is reasonable evidence that improvements are occurring in a timely manner*." Extract Concept note for the Common Approach paper on Coordination on BS in fragile states, WB, AfDB, EC, Nov. 2008.

In the preparation of the budget support programme, the baseline situation for PFM will therefore be clearly identified (e.g. through PEFA assessments or work done by the IMF Fiscal Affairs Department) and the existence of basic elements verified. The quality and sequencing of the PFM reform plans, tailored to the baseline situation and to reform capacity, will then be scrutinised.

**In post-conflict / post crisis / fragile situations, eligibility for budget support will follow the same guiding principles as for other countries but with a differential interpretation insofar as these countries will also have to**:

* Demonstrate that the "**ultra-basic elements**" on public finance management are in place;
* Have **access to an IMF programme.** In the absence of such a programme, an assessment letter will be required from the IMF, confirming that a stability-oriented, macro-economic policy is in place.
* **Demonstrate that a national policy or strategy addressing the challenges of fragility or instability is defined or in the process of being defined (instead of "is in place or under implementation").** In this context, relevant frameworks agreed with the international community to assist the country in addressing the challenges of instability will be considered.

According to the general guidelines, countries need to establish a poverty reduction strategy to become eligible for budget support. However, it is recognised that these countries barely have the financial and human capacity to implement these strategies fully. Therefore, there is a high need of support to improve the social sector service delivery, as progress towards the MDG's is stagnant without sufficient donor support (aid orphan). Aside from or prior to this process, those countries are already generally guided by stabilisation strategies agreed with the International Community (such as the Strategic Framework agreed under the aegis of the Peace Building Commission). Therefore, contrary to "classical" budget support programmes, the general condition for disbursement linked to the development strategy will read as "disbursement condition":

Satisfactory progress in the Poverty Reduction Strategy Paper process" (instead of: "satisfactory progress in the PRSP implementation"). This progress can be assessed in the context of relevant frameworks agreed with the international community to assist the country in addressing the challenges of instability

**It needs to be highlighted that these differences are the only formal deviations from the overall GBS guide.**

Programmes will be designed in such a way that risks are mitigated while ensuring a proper use of the "window of opportunity" immediately after the political agreement leading to the stabilisation phase. Variables that can be used are: targeting or not, the duration of the programmes, the size of the financial envelope and the specific conditions (pre-conditions and /or variable tranche indicators), control and monitoring agreement, and risk management.

Budget support should, however, not be seen as the sole instrument, and should be built into an intervention strategy and accompanied by technical assistance, especially in the area of public finance management. **Budget support should be regarded as a part of the EC stabilisation strategy (normally an element of the CSP/NIP or similar programming document) that contributes to the overall stabilisation strategy formulated by the country and endorsed by the International Community.** The global strategy is made up of political, diplomatic, security (SSR, DDR, ESDP missions, etc), state building and development instruments and actions.

**In order to assess progress in the implementation of the budget support programme,** and more broadly in the progress made by the country in areas linked to budget support, beside frequent and regular dialogue, **an annual review** will be carried out to reinforce the dialogue with the authorities, while keeping separate the political dialogue as such (e.g. under article 8 for countries under the Cotonou Agreement).

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| **Highlights from 2009 guidelines on EC General Budget Support**  General Budget Support can have medium-term or short-term objectives. The March 2002 guidance gave GBS (or macroeconomic budget support) three objectives of “support to economic reforms”; “*ad-hoc* complementary support” and “emergency aid for stabilisation and rehabilitation”. In this guide the objectives have been simplified to cover either medium-term objectives (to support a development or reform policy and strategy) or short-term objectives (to support stabilisation and rehabilitation).  Short-term support for stabilisation and rehabilitation can be provided to support the establishment (or the preservation) of the conditions allowing the implementation of a medium term or long-term development or reform policy and strategy. Thus, for instance, budget support may be supplied within a short-term programme (e.g. in post-crisis countries), which are emerging from internal or external conflict or natural disaster, or for countries affected by crises and difficulties elsewhere. *Fluctuations in export earnings, particularly from the products of the agricultural and mining sectors, may compromise the ability of partner countries to achieve their development goals. For ACP countries, arrangements are therefore foreseen to provide support in the event of short-term fluctuations in such earnings.*  In such situations it would be inappropriate to expect the partner country to have a fully developed national policy and strategy; but nevertheless it would be right to expect a commitment to reform as well as some capacity to plan and implement key measures of a more limited policy and strategy document. Often this type of support takes the form of an annual programme, possibly involving just a single tranche payment based on agreement to a financial stabilisation and economic recovery plan so as to provide timely support to meet external and internal financing needs. Also, such support would normally be the first step in preparing a medium-term programme of support. |

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## Appendix 23: Declaration of Crisis and flexibility in contract procedures

**Introduction**

The 2007 Commission Communication on situations of fragility[[88]](#footnote-88) identified the challenge of working in situations of crisis and the need to enhance the flexibility of the procurement procedures in these situations to allow for more effective delivery of aid. Such flexible implementation could be based on either a Declaration of Crisis, where the Director General will declare the existence of a crisis situation (or the need for emergency/post emergency assistance) in a given country or region, in light of article 168(2) IR (or articles 72 and 73 of the Cotonou Agreement) or by applying an *ad hoc* derogation or requesting a prior approval to the specific article related to the phase of project implementation (See Section 3.3.5).

The Declaration of Crisis (DC) is, in essence, a basket of derogations that enables a much greater degree of flexibility in the initiation and performance of new contracts in accordance with the parameters set by the DG. The DC decision will define its exact geographic scope, namely countr(ies) and/or, if the situation only concerns only a part of a country, region(s) within that country covered by the decision. It will also establish the duration of this situation (usually 1 year), with the possibility to request further revisions/extensions following the same procedure when the deadline for the application of such procedures approaches its end. The decision may also limit the scope of the decision to a specified number of actions or programmes within the country or region in question. It may also contain instructions with regards to the rules of origin and nationality or the need for the Commission to take over the tasks of the Contracting Authority.

The relevant authority is the authorising officer by delegation (i.e. the concerned Director General), who will issue a decision in this regard on the basis of appropriate consultations which will include the programming DG(s) and the responsible Commissioner.

A DC is initiated through a written request to the concerned Director General to declare the existence of a crisis situation (or the need for emergency/post emergency assistance). It may originate from:

* the services of the Commission;
* the country affected by the crisis situation (usually the representative of the national Contracting Authority –also named National Authorising Officer under EDF),
* an international organisation or
* a local or international non State organisation, which may address a request to the Commission.

In practice, the request is usually addressed through the Head of Delegation of the concerned country. In such cases, after consulting the relevant authorities and services and where he/she considers it appropriate, the Head of Delegation shall submit a note to the competent geographical Director in EuropeAid or Enlargement, containing all the necessary factual elements explaining the situation in the given country or region and justifying the existence of the conditions provided for in article 168(2) IR (and/or, for emergency/post-emergency assistance, articles 72 and 73 of the Cotonou Agreement). The note will also define the exact scope of the request (e.g. duration and geographic coverage and the programmes affected by the decision, difficulties/impossibilities for the Contracting Authority of the beneficiary country to carry out its duties). The Director may then decide to transmit the request to the Director General.

In the event that the request is addressed through the concerned Director or directly to the Director General, they may decide to transmit the request to the Head of Delegation (or to the Director in case the request is directly received by the Director General) to prepare the file in accordance with the previous paragraph.

Once a declaration of crisis is made, the instrument regulations, the financial regulations, the implementing rules and the practical guides foresee measures for a flexible implementation. There are three levels:

* procedures defined by the financial regulation and the implementation rules
* specific procedures defined in the financial instrument regulation (such as the Instrument of Stability)
* procedures developed in the guidelines and instruction notes.

The Practical Guide on Contract procedures for EC external relations (version 2008) is the first working tool that explains the contracting procedures applying to all EU external aid contracts financed from the general budget (Budget) and the 10th European Development Fund (EDF). This Guide does not apply to operations implemented in the context of Humanitarian aid or emergency operations carried out by ECHO.

Annex A11 to the Practical Guide specifically applies to situations of crisis, transition and long-term structural instability, providing various exceptions to the general rules, increasing the EC’s flexibility and speed of response; for instance, allowing the award of contracts and grants based on direct negotiated procedures on the basis of only one tender. It should be noted, however, that these procedures apply only to new contracts being procured after a financing decision has been taken by the European Commission.

**Highlights: \***

* Before applying flexible procedures, the existence of a crisis situation in a country or region must be declared by the relevant authority (i.e. the concerned Director General).
* Once a decision declaring a crisis situation (or the need for emergency/post emergency assistance) has been made, grants, service, supplies and works contracts falling under the geographic and temporal scope of such decision may be awarded without using call for tenders or proposals.
* **service contracts**, Contracting Authorities may use the negotiated procedure on the basis of one or several tenders;
* **Supply contracts** may be awarded by negotiated procedure;
* **Works contracts** may be awarded by negotiated procedure;
* **Grants** can be awarded without a call for proposals; and **may be fully financed.**
* The decision declaring a crisis situation or the need for emergency/post emergency assistance does not affect on-going contracts (note that new contracts within programme estimates can use the above-mentioned procedures).
* Monitoring of the flexible procedures used is reported in a specific annex to the External Assistance Management Report (EAMR).

Document(s)

Declaration of Crisis: <http://www.cc.cec/dgintranet/europeaid/contracts_finances/faq/faq_detail/faq_general_en.htm>

1. [*Practical guide to contract procedures for EC external actions (2010)*](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2010_prag_en.pdfhttp:/ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2010_prag_en.pdf),
2. *Guidelines on Contractual Procedures to be used in Cases of Crisis and Emergency and Post Emergency Situations (Annex A11 to the Practical Guide on Contract Procedures)* **Comment: Insert Hyperlink**

A. Practical Guide Extracts related to EC interventions in situations of Fragility and transition to resilience

***3. Service contracts***

***3.2.3 Other procedures***

***3.2.3.1*** *Negotiated procedure*

*For service contracts, Contracting Authorities may use the negotiated procedure on the basis of one or several tenders**in the following cases:*

1. *where, for reasons of extreme urgency brought about by events which the Contracting Authorities could not have foreseen and which can in no way be attributed to them, the time limits for the competitive procedures (referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation applicable to the General Budget) cannot be met. The circumstances invoked to justify extreme urgency must in no way be attributable to the Contracting Authority Operations carried out in crisis situations as referred to in Article 168(2) of the implementing rules are considered to satisfy the test of extreme urgency (see annex A11a)*

***4. Supply contracts***

***4.2.4 Other procedures***

***4.2.4.1*** *Negotiated procedure*

*Supply contracts may be awarded by negotiated procedure on the basis of one or several tenders in the following cases:*

1. *where, for reasons of extreme urgency brought about by events which the Contracting Authorities could not have foreseen and which can in no way be attributed to them, the timelimit for the competitive procedures (referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation applicable to the General Budget) cannot be met. Operations carried out in crisis situations as referred to in Article 168(2) of the Implementing Rules are considered to satisfy the test of extreme urgency (see annex A11a);*

***5. Works contracts***

***5.2.4 Other procedures***

***5.2.4.1*** *Negotiated procedure*

*Works contracts may be awarded by negotiated procedure with one or several tenders, after the Commission has given its agreement if it is not the Contracting Authority, in the following cases:*

1. *where, for reasons of extreme urgency brought about by events which the contracting authorities could not have foreseen and which can in no way be attributed to them, the time limit for the competitive procedures (referred to in points (a), (b) and (c) of Article 91(1) of the Financial Regulation) cannot be met. Operations carried out in crisis situations as referred to in Article 168(2) of the implementing rules are considered to satisfy the test of extreme urgency (see annex A11a)17;*

***6. Grants***

*However, in the case of crisis situations within the meaning of article 168, paragraph 2 of the Implementing Rules of the Financial Regulation, expenditure incurred by a beneficiary before the date of submission of the application shall be eligible for EU financing solely where the expenditure relates to the constitution of stocks by the applicant for use in connection with the action for which the grant is awarded and/or by way of exception and for properly substantiated reasons, the Special Conditions of the grant contract explicitly provide for this by setting an eligibility date earlier than the date for submission of the application.*

***6.2.9 Co-financing (Grants)***

*Grants may not, as a rule, finance the entire cost of the action or the entire operating expenditure of a beneficiary body, with the following exceptions.*

***BUDGET***

*The financing of an action in full may be authorised in the following cases, save where prohibited by the basic act:*

* *humanitarian aid, including assistance for refugees, uprooted persons, rehabilitation and mine clearance;*
* *aid in crisis situations within the meaning of article 168 paragraph 2 of the Implementing Rules of the Financial Regulation;*
* *actions to protect health or the fundamental rights of peoples;*
* *actions resulting from the implementation of financing agreements or actions with international organisations.*

*The Contracting Authority must be in a position to show that financing in full is essential to carry out the action in question and must substantiate its award decision accordingly. Where it is in the interests of the EU to be the sole donor to an action, and in particular to ensure visibility of an EU action. Grounds shall be provided in the Commission's financing decision.*

***EDF***

*The financing of an operation in full may be authorised if the Contracting Authority is in a position to show that financing in full is essential in order to carry out the operation in question and substantiates its award decision accordingly.*

***Grants***

*Only in the following circumstances is it not necessary to organise a Call for Proposals before awarding grants:*

* + - * *In duly substantiated exceptional cases of urgency, i.e., where unforeseeable events oblige the Contracting Authority to act with urgency incompatible with the periods laid down for Call for Proposals procedures described in point 6.3.1. The circumstances cited as grounds for extreme urgency must in no way be attributable to the Contracting Authority (e.g., imminent expiry of the financing agreement*). *Actions carried out in crisis situations as described in Annex A11a are considered to satisfy the test of extreme urgency; this provision is mutatis mutandis applicable to EDF. Under emergency assistance provided for in article 72 and/or 73 of the Cotonou Agreement (see annex A11a), the direct award of grants is also possible.*

**B: Annex A11****Extracts of most important parts related to EC interventions in situations of transition**

*The situations to which these ‘flexible’ contractual procedures apply are defined (by IR art. 168) ‘as situations posing a threat to law and order, the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country, and which could seriously harm:*

1. *the safeguarding of the common values, fundamental interests, independence and integrity of the European Union;*
2. *the security of the European Union, peace-keeping and international security, promotion of international cooperation or development and strengthening of democracy, the rule of law, respect for human rights and fundamental freedoms.*

*The Cotonou Agreement art. 72 defines emergency assistance as aid accorded to the population in ACP States faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects. Article 73 of the Cotonou Agreement provides that post-emergency action, aimed at physical and social rehabilitation, may be undertaken, using effective and flexible mechanisms, to ease the transition from the emergency phase to the development phase, promote the socio-economic reintegration of the populations affected, remove as far as possible the causes of the crisis and strengthen institutions and ownership by local and national actors.*

*It is important to underline that the legal definitions of crisis situations and emergency and post emergency situations focus on the effects of the situations described in those provisions and do not limit their duration or establish an open-ended list of causes leading to the above-mentioned threats or difficulties. A country or region may suffer from long-term structural instability (or fragility), leading to such threats and difficulties, before such country or region is able to reach a level of stability allowing the implementation of "normal" structural development aid. These situations of long-term structural crisis also require the use of the aforementioned flexible procedures.*

*Before applying flexible procedures, the existence of a crisis situation in a country or region must be declared by the relevant authority. The relevant authority is the authorising officer by delegation (i.e. the concerned Director General), who will issue a decision in this regard on the basis of appropriate consultations which will include the programming DG(s) and the responsible Commissioner.*

*The request to the concerned Director General to declare the existence of a crisis situation (or the need for emergency/post emergency assistance) will be in written form. It may originate from: i/ the services of the Commission or ii/ the country affected by the crisis situation (usually the representative of the national Contracting Authority –also named National Authorising Officer under EDF), an international organisation or a local or international non State organisation, which may address a request to the Commission.*

*In practice, the request is usually addressed through the Head of Delegation of the concerned country. In such cases, after consulting the relevant authorities and services and where he/she considers it appropriate, the Head of Delegation shall submit a note to the competent geographical Director in EuropeAid or Enlargement, containing all the necessary factual elements explaining the situation in the given country or region and justifying the existence of the conditions provided for in article 168(2) IR (and/or, for emergency/post-emergency assistance, articles 72 and 73 of the Cotonou Agreement). The note will also define the exact scope of the request (e.g. duration and geographic coverage and the programmes affected by the decision, difficulties/impossibilities for the Contracting Authority of the beneficiary country to carry out its duties). The Director may then decide to transmit the request to the Director General. The Director General may decide, in light of the politically sensitive nature of a case, to raise this question to the College.*

*Except for the case mentioned-above, the decision declaring a crisis situation or the need for emergency/post emergency assistance does not affect on-going contracts. Any modification of such contracts should be made according to the conditions provided for in each of these contracts.*

*Once a decision declaring a crisis situation (or the need for emergency/post emergency assistance) has been made, grants, service, supplies and works contracts falling under the geographic and temporal scope of such decision may be awarded without using call for tenders or proposals.*

*Where the situation in a given country or region prevents the Contracting Authority of the beneficiary country from carrying out its duty to manage decentralised actions or programmes, which may be the case in some cases of crisis or post-crisis, the Commission may, after having established all necessary contacts with the beneficiary country to remedy the situation, decide to replace the Contracting Authority in its duties. If such decision is taken, some or all of the Contracting Authority's implementing tasks would be taken over by the Commission on behalf and for the account of the beneficiary country. The models of the Financing Agreements already foresee this possibility.*

*The use of negotiated procedures under a situation of crisis (or emergency and post-emergency assistance) is subject to the general obligations to report on the use of negotiated procedures (i.e. in cases of decentralised and centralised management).. Note that each and every contract awarded following a negotiated procedures based on the crisis situation (or emergency and post-emergency assistance) needs to be reported.*

*In addition, in decentralised management or contracts managed by the Delegations in centralised management, the concerned Head of Delegation will report on the situation and its operational consequences, including on how these flexible procedures have been applied in order for Headquarters to monitor the implementation procedures. This report will be in the form of an annex to the EAMR reporting system already in place, in order not to give an extra reporting burden to the concerned Delegations.*

## Appendix 24: *Ad hoc* Derogations in Transition Situations

Introduction

A derogation is a waiver from a ***specific*** rule applicable to a procedure or contract that may be granted in writing by the Director General or by the person he/she appoints for that purpose. The rules that can be waived are contained in basic Acts regarding nationality and origin, in the practical guide to contract procedures, in the practical guide to programme estimates and derogations to other instruction notes. Some issues do not need a derogation *per se*, but (just) prior approval from the EC headquarters (see Table 5).

The Declaration of Crisis discussed in the previous section, covers a basket of standardised and harmonised derogations that may be used in total or part to save a good deal of time and provide flexibility in procedures in such situations. However, an application, with full justification, for a specific derogation may be made, even when a full crisis declaration is not possible or warranted. Any such deviation from the "normal practice" requires higher permission at various levels (see Appendix 24, Annex 1). Most deviations possible are covered in all the legislation by the terms "Urgent" or "exceptional circumstances", the use of which needs to be justified. Then, a written decision is taken to derogate the rules on the subject requested.

**Highlights: \***

The Cotonou Agreement and the European Consensus on Development Policy commit the European Commission to implement interventions in situations of transition in a speedy, effective and flexible manner. The Financial instruments, the Financial Regulations, implementing rules and the practical guides foresee such possibilities, including the use of negotiated procedures. However, EC instructions request that prior approval for the use of such procedures is given by EC headquarters and, in particular, by the contractual and financial departments and/or the Director General of Aidco.

Acts

*Instruction note of 13/05/2008 (Aidco/G7/JRA D(2008) 9406. Subject: Instruction relating to the derogation system for contract procedures.* ***Comment: Hyperlink needed to this document***

Extracts related to situations of Fragility and transition to resilience

*Prior Approval is compulsory for using a number of exceptions to a general rule which, although specifically permitted by the applicable rules or not explicitly prohibited by them, require an adequate justification from the sub-delegated authorising officer concerned by the procedure or contract. Prior approvals are required, for instance, for the use of a suspension clause in a call for tenders or of a negotiated procedure.*

*For instance exceptions to a general rule requiring prior approval, as well as the conditions which need to be met, are required for the:*

* *use of competitive dialogue/negotiated procedures instead of call for tenders (art. 125b, 242, 244 and 246 IR or 10.11, 14.1.2, 14.2.2 and 19.1.2 and 19.2.2 EDF GR);*
* *award of a grant contract without prior call for proposals (article 168 IR and Section 6.3.2 PRAG);*
* *use of framework partnership agreements for grants (article 163 IR); or,*
* *use of the suspension clause (section 2.4.13 and 2.3.7 of the PRAG).*

*Note that negotiated procedures (procurement) and direct awards (grants) require prior approval and not a derogation.*

*In principle, all derogations and prior approvals are granted by the Director concerned.*

*There are however some exceptions to this rule:*

1. *The Commission (i.e. College) approves programmes of emergency assistance provided for in article 72 and 73 of the Cotonou Agreement. The approval may also be given by the authority empowered under certain conditions, to approve the correspondent financing decision (e.g. Commissioner or the Director General of EuropeAid)*
2. *The Director General of EuropeAid, for the declaration of a crisis situation under EC budget/emergency and post-emergency assistance under EDF through a decision indicating its duration and scope*

*Request for derogations and prior approvals must be made in writing.*

*The request must include the description of the basic facts relating to the relevant procedure and/or contract and the reasons for such request. It shall refer to the specific category of derogation or prior approval requested, on the basis of the lists attached as Annex I and II to this Technical Sheet.*

*The report on derogations, negotiated procedures, suspension clause and other exceptions to be sent to EuropeAid’s Director-General will be drawn up on a biannual basis, with a brief presentation by Directorate G in a cover note. The report model is given in Annex III to this Technical sheet.*

ANNEX I: LIST OF PRIOR APPROVALS

1. ***Prior approvals other than negotiated procedures***

|  |  |  |
| --- | --- | --- |
| ***No.*** | ***Description of the prior approval/Observations*** | ***Competent authority*** |
| *a)* | *Emergency assistance/crisis situation* |  |
| 1. *Declaration of emergency assistance/crisis situation (no prior approval needed for specific cases falling under this declaration)* | *Director General* |
| 1. *Adoption of a programme of emergency assistance based on article 72/73 of the Cotonou Agreement (no prior approval needed for specific cases) (EDF only)* | *Commission* |
| *b)* | *De jure or de facto monopoly* | *Director* |

|  |  |  |
| --- | --- | --- |
| ***No*** | ***Case*** | ***Competent authority*** |
| ***25*** | ***Services*** |  |
| *a)* | *Urgency/ Emergency assistance/crisis situation* |  |
|  | 1. *Urgency/Extreme urgency* | *Director* |
|  | 1. *Declaration of emergency assistance/crisis situation (no prior approval needed for specific cases falling under this declaration)* | *Director General* |
|  | 1. *Adoption of a programme of emergency assistance based on article 72/73 of the Cotonou Agreement (no prior approval needed for specific cases ) (EDF only)* | *Commission* |
| *b)* | *Services entrusted to public-sector bodies or to non-profit making institutions or associations* | *HoU*  *HoD* |
| *c)* | *Services which are an extension of services already started (complementary or additional services)* | *HoU*  *HoD* |
| *d)* | *Unsuccessful call for tenders* | *HoU*  *HoD* |
| *e)* | *Services whose implementation, for technical reasons or for reasons connected with the protection of exclusive rights, can be awarded only to a particular service provider (Budget and 7th and 8th EDF )[[89]](#footnote-89);* | *Director* |
| *f)* | *In the event of one failure of the simplified procedure (EDF)/competitive negotiated procedure (Budget), following the unsuccessful use of a framework contract (if its use is possible), use of the negotiated procedure (after cancellation of the procedure launched)* | *HoU*  *HoD* |
| *g)* | *Contracts declared to be secret, or for contracts whose performance must be accompanied by special security measures or when the protection of the essential interests of the European Union or the beneficiary country so requires (Budget only)* | *Director* |
| *h)* | *Small-scale operations and short term technical cooperation schemes (7th and 8th EDF). Small scale operations are those not exceeding EUR 150 000. Short term means less than one year* | *HoU*  *HoD* |
| *i)* | *Service contract for operations assigned to individual experts (7th and 8th EDF)* | *HoU*  *HoD* |

|  |  |  |
| --- | --- | --- |
| ***No*** | ***Case*** | ***Competent authority*** |
| ***26*** | ***Supplies*** |  |
| *a)* | *Urgency/ Emergency assistance/crisis situation* |  |
|  | 1. *Urgency/Extreme urgency* | *Director* |
|  | 1. *Declaration of emergency assistance/crisis situation (no prior approval needed for specific cases)* | *Director General* |
|  | 1. *Adoption of a programme of emergency assistance based on article 72/73 of the Cotonou Agreement (no prior approval needed for specific cases ) (EDF only)* | *Commission* |
| *b)* | *Nature or particular characteristics of certain supplies;* | *HoU*  *HoD* |
| *c)* | *Additional deliveries;* | *HoU*  *HoD* |
| *d)* | *Unsuccessful call for tenders;* | *HoU*  *HoD* |
| *e)* | *In the event of two successive failures of the simplified procedure (EDF)/competitive negotiated procedure (Budget), use of the negotiated procedure (after cancellation of the procedure launched)* | *HoU*  *HoD* |
| *f)* | *Contracts declared to be secret, or for contracts whose performance must be accompanied by special security measures or when the protection of the essential interests of the European Union or the beneficiary country so requires (Budget only)* | *Director* |
| *g)* | *Contracts in respect of supplies quoted and purchases on a commodity market (Budget only)* | *Director* |
| *h)* | *Contracts in respect of purchases on particularly advantageous terms, either from a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, an arrangement with creditors, or a similar procedure under national law (Budget only)* | *Director* |
| *i)* | *Small-scale operations (7th and 8th EDF only)*  *Small scale operations are those not exceeding EUR 25 000* | *HoU*  *HoD* |

|  |  |  |
| --- | --- | --- |
| ***No*** | ***Case*** | ***Competent authority*** |
| ***27*** | ***Works*** |  |
| *a)* | *Urgency/ Emergency assistance/crisis situation* |  |
| *i) Urgency/Extreme urgency* | *Director* |
| *ii) declaration of emergency assistance/crisis situation (no prior approval needed for specific cases falling under this declaration)* | *Director General* |
| *iii) Adoption of a programme of emergency assistance based on article 72/73 of the Cotonou Agreement (no prior approval needed for specific cases ) (EDF only)* | *Commission* |
| *b)* | *Additional work* | *HoU*  *HoD* |
| *c)* | *Unsuccessful call for tenders;* | *HoU*  *HoD* |
| *d)* | *In the event of two successive failures of the simplified procedure (EDF)/competitive negotiated procedure (Budget), use of the negotiated procedure (after cancellation of the procedure launched)* | *HoU*  *HoD* |
| *e)* | *contracts declared to be secret, or for contracts whose performance must be accompanied by special security measures or when the protection of the essential interests of the European Union or the beneficiary country so requires (Budget only)* | *Director* |
| *f)* | *Small-scale operations (7th and 8th EDF only)*  *Small scale operations are those not exceeding EUR 250 000* | *HoU*  *HoD* |

***NOTE: The conditions on the use of the negotiated procedures are specified in the applicable rules (articles 125 b, 242, 244 and 246 IR or 10.1.2, 14.1.2, 14.2.2 and 19.1.2 and 19.2.2 of the EDF GR)***

1. “Linking relief, rehabilitation and development”. COM(1996) 153 final. 30.4.1996 and [*EC Communication* ***Linking Relief, Rehabilitation and Development - An assessment.*** *Reference : Brussels, 23.04.2001, COM (2001) 153 final.*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0153:FIN:EN:PDF) [↑](#footnote-ref-1)
2. “Linking relief, rehabilitation and development”. COM(1996) 153 final. 30.4.1996 [↑](#footnote-ref-2)
3. [*EC Communication* ***Linking Relief, Rehabilitation and Development - An assessment.*** *Ref. Brussels, 23.04.2001, COM (2001) 153 final.*](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0153:FIN:EN:PDF)  [↑](#footnote-ref-3)
4. It should be noted that several parts, and in particular the Financial Instruments such as the Instrument of Stability, were subject to a review in 2010, which has not been finalised at the time of writing. Other modifications to various parts of the EC regulatory framework are possible but most structural changes are likely to materialise during preparation and implementation of the post-2013 financial perspectives. [↑](#footnote-ref-4)
5. The definition of the term ‘fragile state’ is often loosely used between different states of ‘fragility’(see Table 1). Often included under the term ‘fragile state’ are states which have slipped further down the slope from fragility to crisis status and into full or partial collapse. For the purpose of the Handbook, the term ‘fragile state’ will refer to states who are, for whatever reason their fragility, in a state of ‘Transition’ from emergency aid to sustainable development. [↑](#footnote-ref-5)
6. *Op cit* [↑](#footnote-ref-6)
7. Adapted from: The support study in view of the follow up to the 2007 Commission Communication, Council conclusions and EP resolution on States of Fragility –“Mapping of Donors, Actors, Financial instruments and assessment tools in situations of fragility” framework contract Commission 2007 Lot 4 2008/156520 [↑](#footnote-ref-7)
8. Article 96 provides for a consultation procedure between ACP States and the EC and the application of appropriate measures to redress the situation where one party is considered by the other to have failed in fulfilling its obligation regarding human rights, democratic principles and the rule of law, all of which are considered essential elements of the Cotonou Agreement. The appropriate measures are taken in accordance with international law, and proportional to the violation, Suspension of the Agreement is seen as a measure of last resort. [↑](#footnote-ref-8)
9. The corresponding action plan is under preparation, as required by the European Council. The institutional changes created by the Lisbon Treaty, particularly the establishment of the European External Action Service, have so that only the draft Action Plan is considered here and is thus subject to change. [↑](#footnote-ref-9)
10. “Geographic Zone” is a construct of the EU as the countries are rarely contiguous and have few physical/environmental similarities (e.g. ACP – African, Caribbean and Pacific) [↑](#footnote-ref-10)
11. See Appendix 1 for further information. [↑](#footnote-ref-11)
12. Aidco Guideline [↑](#footnote-ref-12)
13. Regulation (EC) No [1905/2006](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2006&nu_doc=1905) of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation. [↑](#footnote-ref-13)
14. Regulation (EC) No [1717/2006](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R1717:EN:NOT) of the Parliament and of the Council of 12 November 2006 establishing an Instrument for Stability. [↑](#footnote-ref-14)
15. For further information see sections 2.1.2 & 2.2.2 and Appendices 1 & 3, covering the Cotonou Agreement and the European Consensus on Development Cooperation [↑](#footnote-ref-15)
16. For further information see section 2.1.2, 2.2.2, 2.4.1.1 & 2.4.2.3, covering the Cotonou Agreement, the European Consensus on Development Cooperation and the DCI financial instruments) [↑](#footnote-ref-16)
17. Communication from the Commission to the Council and the European Parliament of 2 March 2006, OJ C 130 of 3 June 2006. [↑](#footnote-ref-17)
18. Financing for Development and Aid Effectiveness: Delivering more, better and faster – conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council 8243/1/06 Rev 1 DEVGEN 94 RELEX 215 FIN 123 Council of the European Union, Luxemburg, 11 April 2006. [↑](#footnote-ref-18)
19. COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1) [↑](#footnote-ref-19)
20. Notably, [the World Bank ("Trust Fund and Co-financing Framework Agreement" of 8 November 2001](http://ec.europa.eu/europeaid/work/procedures/implementation/international_organisations/other_documents_relating_world_bank/documents/f2_wb_agreement_en.pdf)) and [the United Nations ("Financial and Administrative Framework Agreement" of 29 April 2003](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/previous_versions/2003/documents/un_ec_fwc_en.pdf)). The existence of these agreements allows a wider use of joint management (see previous point) and may contain provisions complementing, clarifying or adapting the contribution-specific agreements to be concluded with the organisation concerned, in light of the specific requirements of this organisation. [↑](#footnote-ref-20)
21. as specified in Article 72 and 73 of the Cotonou Agreement and in Article 168(2) of the Implementing Rules of the EC Budget Financial Regulation. [↑](#footnote-ref-21)
22. The global strategy is made up of political, diplomatic, security (SSR, DDR, ESDP missions, etc.), state building and development instruments and actions. [↑](#footnote-ref-22)
23. see Appendix 4 and EC Communication ‘Towards an EU Response to Situations of Fragility’ - engaging in difficult environments for sustainable development, stability and peace (Brussels, 25.10.2007, COM(2007) 643 final {SEC(2007) 1417}) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0643:FIN:EN:PDF> [↑](#footnote-ref-23)
24. Instruction note of 13/05/2008 (Aidco/G7/JRA D(2008) 9406. Subject: Instruction relating to the derogation system for contract procedures – See Appendix 24, Annex 1 [↑](#footnote-ref-24)
25. For the definition of the" Declaration of crisis" see section 3.3.4 and Appendix 23 [↑](#footnote-ref-25)
26. If there is already a Yes in the column (I), this Derogation is already covered by a possible "Declaration of Crisis" [↑](#footnote-ref-26)
27. See Section 2.4.4.1 and Appendix 14 for full details on the FR/IR legislation [↑](#footnote-ref-27)
28. See Section 2.1.2 and Appendix 1 for full details on the Cotonou Agreement and Section 2.4.3 and Appendix 10 for more details on the EDF. [↑](#footnote-ref-28)
29. Article 72 of the Cotonou Agreement defines emergency assistance as aid accorded to the population in ACP States faced with **serious economic and social difficulties of an exceptional nature** resulting from natural disasters, man made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects.

    Article 73 of the Cotonou Agreement provides that **post-emergency action, aimed at physical and social rehabilitation**, may be undertaken, using effective and flexible mechanisms, to ease the transition from the emergency phase to the development phase, promote the socio-economic reintegration of the populations affected, remove as far as possible the causes of the crisis and strengthen institutions and ownership by local and national actors. [↑](#footnote-ref-29)
30. COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1) [↑](#footnote-ref-30)
31. to bodies with a *de jure* or de facto monopoly, duly substantiated in the award decision. [↑](#footnote-ref-31)
32. Allows for *expenditure incurred by a beneficiary before the date of submission of the application u*nder conditions: “provided for in the basic act or for the expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations as laid down in the implementing rules.” [↑](#footnote-ref-32)
33. If there is already a Yes in the column (I), this Derogation is already covered by a possible "Declaration of Crisis" [↑](#footnote-ref-33)
34. See Section 2.4.4.1 and Appendix 14 for full details on the FR/IR legislation [↑](#footnote-ref-34)
35. See Section 2.1.2 and Appendix 1 for full details on the Cotonou Agreement and Section 2.4.3 and Appendix 10 for more details on the EDF. [↑](#footnote-ref-35)
36. Service, supply and work contracts [↑](#footnote-ref-36)
37. Service contract, [↑](#footnote-ref-37)
38. Supply contracts, [↑](#footnote-ref-38)
39. Work contracts. [↑](#footnote-ref-39)
40. Service contract. [↑](#footnote-ref-40)
41. Supply contract. [↑](#footnote-ref-41)
42. Work contract. [↑](#footnote-ref-42)
43. Service contract. [↑](#footnote-ref-43)
44. Supply contract. [↑](#footnote-ref-44)
45. Work contract. [↑](#footnote-ref-45)
46. See COMMISSION REGULATION (EC, EURATOM) No 2342/2002 of 23 December 2002, laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities [↑](#footnote-ref-46)
47. The reserve for unforeseen needs, called the B-envelope, is part of the indicative financial amount set aside for each ACP country and region. [↑](#footnote-ref-47)
48. The corresponding action plan is under preparation, as required by the European Council. The institutional changes created by the Lisbon Treaty, particularly the establishment of the European External Action Service, have so that only the draft Action Plan is considered here and is thus subject to change. [↑](#footnote-ref-48)
49. The World Conference on Disaster Reduction held in January 2005 in Kobe, Hyogo, Japan adopted a framework for action 2005 – 2015: Building the resilience of Nations and Communities to Disasters. The Conference provides the unique opportunity to promote a strategic and systematic approach to reducing vulnerabilities and risk to hazards. The Hyogo Framework for Action is a global blueprint for disaster risk reduction efforts during the next decade. Its goal is to substantially reduce disaster losses by 2015 in lives and in the social, economic, and environmental assets of communities and countries. However, only governments could adopt the Hyogo Framework, which is why the Commission has not formally adopted it. [↑](#footnote-ref-49)
50. This article enables funding to be provided under DCI for interventions that i/ cannot be funded under the instrument for stability or where there is a need to ensure continuity in a situation of transition. [↑](#footnote-ref-50)
51. For more information see Section 2.1.2 (Cotonou Agreement) and 3.1.2 (Programming). [↑](#footnote-ref-51)
52. Article 35(2) refers to the Council Committees tasked with assisting the EC implementing the DCI regulation. The article enables the EC to speed up financing decisions, in particular when the amount is below euro 10 million. [↑](#footnote-ref-52)
53. This article enables the EC services to use relatively fast (financial) decision-making procedures for special measures. The EC can take the financing decision and then inform the EU member states and the European Parliament, as long as the special measure is below euro 10 million. [↑](#footnote-ref-53)
54. This article refers to the responsibilities of the Council Committee established to assist the EC in implementation of the ENPI. Decision 1999/468/EC lays down the procedures for the exercise of implementing powers conferred on the Commission [↑](#footnote-ref-54)
55. For further and related information see Section 2.1.2 and Appendix 1 on the Cotonou Agreement. [↑](#footnote-ref-55)
56. *ibid.* [↑](#footnote-ref-56)
57. This article allows the EC to award grants which cover actions and costs incurred prior to the submission of a grant application. [↑](#footnote-ref-57)
58. For further information on all the areas that can financed by the Instrument of Stability in situations of crisis or emerging crisis see article 3 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:327:0001:0011:EN:PDF) [↑](#footnote-ref-58)
59. RELEX A: AIDCO Directors meeting, 17 December 2010 [↑](#footnote-ref-59)
60. [DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:134:0114:0240:EN:PDF) [↑](#footnote-ref-60)
61. See Appendix 22: ‘Implementation via EC budget support in Fragile Situations’ for further information [↑](#footnote-ref-61)
62. <https://intracomm.ec.europa.eu/dgintranet/europeaid/activities/quality_support_groups/tools/financing_proposals_en.htm>

    <https://intracomm.ec.europa.eu/dgintranet/europeaid/activities/quality_support_groups/tools/identification_fiches_en.htm> [↑](#footnote-ref-62)
63. <https://intracomm.ec.europa.eu/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_C_2010_1200_F_FR_ANNEXE2.pdf> **English ?** [↑](#footnote-ref-63)
64. ***Note to Director General and Heads of Service from Secretariat General*** dated Juin 2009 ref ***SEC (2009) 780***, ref ARES (2009)228489, Revised guide to inter-service consultation and new instant statistics module in CIS-Net

    ***Note to AIDCO Deputy Director General and Directors from AIDCO Director General*** dated September 2009, ref ***AIDCO/ARES (2009)228489***, on **Instruction note 04-EN/2009-Aug: Inter-service consultations (ISC)**,

    The SG’s note includes in the annex the guideline for ISC which is developed from the Commission’s rules of procedure document. Respective clauses are presented in the below table. The AIDCO’s instruction note is based on the SG’s one but mention only the fast-track procedure. [↑](#footnote-ref-64)
65. COUNCIL DECISION of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC) (which will be modified in 2010 following the entry into force of the Lisbon Treaty) establishes the typology and basic rules of different committees, except for the EDF Committee.

    ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 and revised in Luxembourg on 25 June 2005, concluded for a period of 20 years commencing on 1 March 2000. Financial protocols are defined for each five-year period (see Art. 95). [↑](#footnote-ref-65)
66. https://intracomm.ec.europa.eu/dgintranet/europeaid/about/our-partners/management-committees/dci-geographic/documents/rules\_of\_procedure\_dci\_2009\_en.pdf [↑](#footnote-ref-66)
67. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:310:0001:0014:EN:PDF> [↑](#footnote-ref-67)
68. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:247:0032:0045:EN:PDF> [↑](#footnote-ref-68)
69. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:078:0001:0034:EN:PDF> [↑](#footnote-ref-69)
70. Art 6.2 IFS regulation on rapid & flexible procedure (exceptional assistance measures and exceptional & unforeseen measures) [↑](#footnote-ref-70)
71. Article 21 of DCI regulation, Article 5.3 of the EIDHR Regulation, Article 7 of the ENPI, Article 7 of IFS Regulation [↑](#footnote-ref-71)
72. Article 4.2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote. [↑](#footnote-ref-72)
73. In accordance with §4 of the article 3 of the rule and procedure for the DCI committee (DCI RoP 2009). [↑](#footnote-ref-73)
74. Article 13.2 – “Correspondence for Committee members shall be addressed to the Permanent Representations and to the persons designated for this purpose by the Member States in the most rapid and reliable electronic way.” [↑](#footnote-ref-74)
75. « Article 11.3. Lorsque le comité du FED est appelé à donner son avis, le représentant de la Commission lui soumet un projet des mesures à prendre dans les délais fixés par la décision du Conseil relative au règlement intérieur du comité du FED visé à l'article 8, paragraphe 5, de l'accord interne. Le comité du FED rend son avis dans un délai que le président peut fixer en fonction de l'urgence de la question, mais qui ne doit pas dépasser trente jours. » Article 8.5 of the internal agreement stipulates that “The Council shall adopt the rules of procedure of the EDF Committee acting unanimously”. [↑](#footnote-ref-75)
76. Council Regulation (EC) No 617/2007 of 14 May 2007 on the implementation of the 10th European Development Fund under the ACP-EC Partnership Agreement (established by Article 10 of the Internal Agreement) [↑](#footnote-ref-76)
77. Article 13.2 – “Correspondence for Committee members shall be addressed to the Permanent Representations and to the persons designated for this purpose by the Member States in the most rapid and reliable electronic way.” [↑](#footnote-ref-77)
78. Instruments financed under the budget (DCI, EIDHR) [↑](#footnote-ref-78)
79. Article 5a (3) If the measures envisaged by the Commission are in accordance with the opinion of the Committee, the following procedure shall apply:

    the Commission shall without delay submit the draft measures for scrutiny by the European Parliament and the Council;

    the European Parliament, acting by a majority of its component members, or the Council, acting by a qualified majority, may oppose the adoption of the said draft by the Commission, justifying their opposition by indicating that the draft measures proposed by the Commission exceed the implementing powers provided for in the basic instrument or that the draft is not compatible with the aim or the content of the basic instrument or does not respect the principles of subsidiarity or proportionality;

    if, within three months from the date of referral to them, the European Parliament or the Council opposes the draft measures, the latter shall not be adopted by the Commission. In that event, the Commission may submit to the Committee an amended draft of the measures or present a legislative proposal on the basis of the Treaty;

    1. if, on expiry of that period, neither the European Parliament nor the Council has opposed the draft measures, the latter shall be adopted by the Commission.

    [↑](#footnote-ref-79)
80. Article 5a(4) If the measures envisaged by the Commission are not in accordance with the opinion of the Committee, or if no opinion is delivered, the following procedure shall apply:

    the Commission shall without delay submit a proposal relating to the measures to be taken to the Council and shall forward it to the European Parliament at the same time;

    the Council shall act on the proposal by a qualified majority within two months from the date of referral to it;

    if, within that period, the Council opposes the proposed measures by a qualified majority, the measures shall not be adopted. In that event, the Commission may submit to the Council an amended proposal or present a legislative proposal on the basis of the Treaty;

    if the Council envisages adopting the proposed measures, it shall without delay submit them to the European Parliament. If the Council does not act within the two month period, the Commission shall without delay submit the measures for scrutiny by the European Parliament; the European Parliament, acting by a majority of its component members within four months from the forwarding of the proposal in accordance with point (a), may oppose the adoption of the measures in question, justifying their opposition by indicating that the proposed measures exceed the implementing powers provided for in the basic instrument or are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality; [↑](#footnote-ref-80)
81. https://intracomm.ec.europa.eu/sg\_vista/cgi-bin/repository/getdoc/COMM\_PDF\_C\_2010\_1200\_F\_FR\_ANNEXE2.pdf [↑](#footnote-ref-81)
82. In accordance with the article 12-4.1, the completion date set by the Secretary-General for each written procedure shall be not less than five working days from the date on which the document was distributed. 12-4.2 However, a shorter time limit may be set if the circumstances so require, as provided in rules 12-4.3, 12-4.4, 12-4.5 and 12-4.6. [↑](#footnote-ref-82)
83. See: https://intracomm.ec.europa.eu/home/dgserv/sg/manupro/docs/table\_languages\_fr.pdf [↑](#footnote-ref-83)
84. The specific articles referred to below might have a different number in the general templates applicable to the EDF. [↑](#footnote-ref-84)
85. The specific articles referred to below might have a different number in the general templates applicable to the EDF. [↑](#footnote-ref-85)
86. **as specified in Article 72 and 73 of the Cotonou Agreement and in Article 168(2) of the Implementing Rules of the EC Budget Financial Regulation.** [↑](#footnote-ref-86)
87. **The global strategy is made up of political, diplomatic, security (SSR, DDR, ESDP missions, etc.), state building and development** instruments and actions. [↑](#footnote-ref-87)
88. see Appendix 4 and EC Communication ‘Towards an EU Response to Situations of Fragility’ - engaging in difficult environments for sustainable development, stability and peace (Brussels, 25.10.2007, COM(2007) 643 final {SEC(2007) 1417}) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0643:FIN:EN:PDF> [↑](#footnote-ref-88)
89. Where the execution of the contract is exclusively reserved for holders of patents or licences to use, process or import" (7th and 8th EDF) [↑](#footnote-ref-89)