

NOTE NO 5

Identifying and implementing EU modalities and instruments in situations of conflict and fragility

MAKING THE BEST USE OF A VAST EXPERIENCE

Topic overview

Situations of conflict and fragility are complicated and fast changing. A very large proportion of EU support is now directed to fragile and conflict-affected situations, and there is increasing recognition that modalities have to adapt to this new 'normal' situation. In response, the EU has developed — and continues to develop — a variety of modalities and instruments that, in combination, can react rapidly to situations of conflict and fragility, as well as develop the basis for long-term transition and change.

The range of modalities and instruments is presented in [Section 2.4](#) of Part I of this handbook. Modalities can be divided into **project support** and **budget support**. For both of these modalities, there are a number of instruments that can be used; and for crisis declaration countries, special flexible procedures can be invoked (see [Note No 6](#)).

This note looks at experience with using the [Instrument contributing to Stability and Peace](#) (IcSP) and state-building contract budget (SBC) modality. The note also introduces the new possibilities of the EU trust fund.

The core instrument for ensuring a rapid response in fragile and conflicted-affected situations has been the

BOX 1 Situations for which the IcSP was designed

- Situations of urgency, crisis or emerging crisis
- Situations posing a threat to democracy, law and order, the protection of human rights and fundamental freedoms, or the security and safety of individuals, in particular those exposed to gender-based violence in situations of instability
- Situations threatening to escalate into armed conflict or to severely destabilise the third country or countries concerned.

SUMMARY

- The EU has a range of dedicated modalities and instruments especially adapted for situations of conflict and fragility, making best use of a wealth of experience.
- Instruments that allow urgent short-term reaction such as the IcSP can be combined with modalities that serve long-term goals of state-building, including state-building contracts.
- The EU has launched an EU multi-donor trust fund that can bring together and harmonise the resources of many donors and reduce complications and transaction costs for states in situations of conflict and fragility.
- There is no prescription for how to use the available modalities and instruments because each case is unique. Each Delegation responding to a fragile or conflict-affected situation will need to identify an appropriate mix of modalities, and implement and adjust them according to the results obtained and the changing situation.
- It is vital to consider the security and well-being of the staff involved — not only of the Delegation but also of its contractors and partners.

Instrument for Stability (IfS), now replaced by the IcSP (Box 1). The IcSP uses a project-based modality and is particularly adapted for reacting to situations that could not have been foreseen as part of normal programming.

Since 2012, state-building contracts have been added as a potentially powerful budget support modality (Box 2) to respond to situations of conflict and fragility where the countries have a credible strategy for and commitment to building up the state and delivering basic services.

Increasingly, the EU has sought joint approaches with others in the spirit of the New Deal (e.g. the use of compacts; an example of which can be found [here](#)). More recently, a new instrument, the EU trust fund, has been set up to facilitate the pooling of EU funds with those of other donors under the lead of the EC. This is expected to improve the impact of the EU's external assistance in terms of concrete deliverables for crises and global challenges and to reinforce its credibility and visibility on the international scene (Box 3).

BOX 3 Why the EU trust fund was needed

- The EU may lead international initiatives, where it can demonstrate its added value
- Provides increased visibility for the EU and Member States
- Reinforces accountability, control and transparency, particularly vis-à-vis European control institutions
- Facilitates donor coordination, in particular with the EU and Member States
- Brings in more resources and more flexible mechanisms.

BOX 2 Situations for which the SBC was designed

- Where a fragile state has a credible strategy for and commitment to building the state and delivering basic services, but lacks the financial resources and capacity;
- Where there are good prospects for improving country systems by supporting and improving them from within by promoting a better and more structured public administration, a more efficient public financial management system, more transparent and accountable planning and budgeting systems, and gradually restoring macro-economic stability;
- Where fragility or transition processes require promoting development, democratic governance and human rights, including making sustainable changes in transition societies and helping to ensure the revival of vital state functions.

There is no prescription as to how to use the modalities and instruments, because each case is unique. Each Delegation responding to a fragile or conflict-affected situation will need to identify an appropriate mix of modalities and implement and adjust them according to the results obtained and the changing situation.

This note looks at the experience of using a range of modalities and instruments in a number of different cases and examples:

- **Niger:** an example of using the IfS (now the IcSP) as part of an interim response programme that uses a mix of financial and non-financial instruments;
- **Sri Lanka:** using the IfS (now the IcSP) to contribute to enhancing conflict-sensitive programming;
- **State-building contracts:** lessons learned from the first countries using this modality;
- **Engaging in multi-donor trust funds:** lessons and experience from other trust funds.

Key issues

Issues and dilemmas that have arisen in applying the EU's comprehensive range of modalities and instruments include the following:

- **Difficulty in deciding on which instruments to use when the data and basis for decision-making are weak and the situation is constantly changing.** The use of special modality instruments such as the SBC and the IcSP, which are dedicated to responding to situations of conflict and fragility, is guided by eligibility criteria and the process of declaring crisis situations. Although this guidance is invaluable, information on local circumstances is needed to ensure that the correct judgement is made. Often, the degree of uncertainty is very great, and the risks of late reaction are high; waiting for better information is sometimes the easier, but not always the right, option.

- **Using modalities and instruments so that it is easier to work with others.** Early engagement with other donors is usually the key to good coordination because it is easier to coordinate at the planning stage than during implementation when projects are more rigid. But coordination takes time that sometimes is not available, and coordinating with others can sometimes lead to unclear decision-making and increase uncertainty.
- **Using a mix of modalities and instruments to link short-term and long-term aims.** Linking with the humanitarian efforts of ECHO is essential to get a 'contiguum' of response from relief, rehabilitation to development — bearing in mind that operations in relief, rehabilitation and development may all be ongoing simultaneously within any given country.
- **When to consider a state-building contract and what preparations are needed.** SBCs are a highly innovative and recently introduced modality. Experience is being gained in establishing and implementing them. As this experience is gained, more will be learned about the circumstances in which they are most appropriate and likely to work. SBCs provide a means for the state itself to take responsibility and gain legitimacy from re-establishing basic services while recognising and finding appropriate safeguards, given that fragile states are inherently weak in implementing and have high fiduciary risks.

Case studies

Niger: using the IfS as part of an interim response programme that brings in other donors and is complemented by longer-term initiatives

SOURCE



Erik Ponsard, Rafael Aguirre-Unceta and Juan Villa Chacon, EU Delegation to Niger

CONTEXT

Niger has suffered in the past from political turmoil and a number of armed rebellions. But now the problem is concentrated at Niger's borders. Instability has been growing over the last few years, not only threatening but now affecting Niger with spill-over effects.

- At the northern border, the 2011 revolution in Libya has resulted in the demobilisation of numerous former Tuareg rebels (Nigeriens and Malians alike) who had served Col. Gaddafi's regime and who eventually returned after its collapse. The uncontrolled circulation of weapons, drugs and human trafficking in the aftermath of the Libyan conflict is threatening stability in the entire Sahel area.
- At the north-western border, Niger's direct involvement in the military operation initiated by France in January 2013 resulted in spill-over effects to Niger (i.e. synchronised suicide attacks to military barracks in May 2013). The involvement of Nigeriens has not been officially revealed, although the complicity of the local population seems to have been essential in carrying out the attacks. The arrival of tens of thousands of returnees and refugees to the area escaping abuses perpetrated by extremist groups in Mali and later from military operations has added confusion, because of the likely presence of terrorist elements among these refugees.
- On the southern border, instability is rising due to Boko Haram terrorist attacks in Nigeria and the severe response of the Nigerian army, resulting in the loss of more than 3 600 lives (according to Human Rights Watch reports). Both sides of the border are populated by the same ethnic group, the Hausa, with an intrinsic risk of contagion because of ethnic solidarity and border porosity. These risks are being exacerbated by the arrival of more than 6 000 returnees and refugees escaping from the military operations in Nigeria. The presence of Boko Haram elements among these refugees cannot be excluded.

Regionally, Al-Qaeda in the Islamic Maghreb (AQIM) and the Movement for Unity and Jihad in West Africa (MUJWA) have been responsible for actions in Niger since 2008. These include attacks against the Nigerien army and kidnappings, as well as the killing of several Westerners. These groups are also involved in all kinds of criminal cross-border trafficking. The presence of Mokhtar Balmokhtar's group (*les signataires par le sang*) has also been confirmed, as they claimed responsibility for the attack on Niamey's prison and the subsequent escape of Boko Haram members that brought the terrorist threat to the very heart of the capital. The announced merger of Mokhtar Balmokhtar's group with MUJWA adds a new element of threat to the Nigerien context.

CHALLENGES AND OPPORTUNITIES

A range of actions were needed to prevent the rise and intensification of conflict as well as to aid post-conflict recovery. The challenges were significant.

The root causes of the conflict were across the borders, exploiting an already fragile situation in social and economic terms. Quick measures were needed to shift the momentum away from increasing chaos; it was vital to improve security and to keep community confidence in public civilian authorities in order to allow civil society to function.

There were opportunities to provide a means of promoting the social and economic integration of young people, including former rebellion fighters, mercenaries and returnees from Libya. These opportunities included activities to provide training and services to help the youth find employment. An immediate improvement in the provision of health services in remote areas was also seen as a factor that could help stabilise the situation in the short term. In the longer term, there were opportunities for capacity building of national and local institutions involved in the peace consolidation process. Supporting religious dialogue to promote tolerance and communication was also identified as an important opportunity for preventing the escalation of tension and conflict.

ACTIONS TAKEN

An IfS programme to support security and stabilisation in northern Niger and Mali was initiated in early 2012 to end in early 2014 (EUR 10.9 million). As the conflict and turmoil spread to Niger's other borders, a second IfS programme to support the reduction of risks related to security and instability in the north-west and south-east of Niger was initiated in mid-2013 to end in December 2016 (EUR 18.7 million).

Both IfS programmes were implemented by international organisations as well as by international and local NGOs under the overall responsibility of the High Authority for the Consolidation of Peace. The involvement of national authorities helped the programmes to reach out and support the public sector; for example, the programmes sought to improve the security of the people by supporting the creation of municipal police bodies and updating national regulations for de-mining operations. The involvement of NGOs helped in direct assistance in de-mining operations and in providing assistance to the victims of mines.

The IfS programme was designed within the framework of the EU Strategy for Security and Development in the Sahel, a comprehensive and coherent approach to the region's complex crisis situation. The programme also complements other EU-funded initiatives, such as the IfS long-term Sahel counter-terrorism programme and EDF-funded projects (Programme to Support to the Justice Sector and the Rule of Law (PAJED)). It also ensures synergies with the CSDP European Union Capacity Building Mission (EUCAP) Sahel mission in Niger. The second IfS programme is also supported by Denmark, helping to harmonise the efforts of the EU and Member States.

LESSONS LEARNED

- Sound, sensitive programming is required in an environment where the competition for financial resources can lead to conflict escalation.
- Involvement of all stakeholders is necessary to ensure the correct targeting of activities and beneficiaries. This will also result in a positive perception of the intervention by the local population.
- It was important to act early and to be willing to extend support into a second programme aimed at other border areas of the country that were faced with a spill-over effect.
- A range of interventions was identified in the private sector to stimulate employment, in the public sector to improve governance and in civil society to support religious dialogue and tolerance.
- The knowledge and proper assessment of potential implementing partners was key to the success of the programme.
- The programme made use of the high implementation capacity of international NGOs and facilitated harmonisation processes between implementing partners before the contracting phase.
- Linking international NGOs with local NGOs allowed the comparative advantages of both to be gained.
- Ensuring that the IfS (now IcSP) programmes were under a national authority — in this case the High Authority for the Consolidation of Peace — was key.

Sri Lanka: using the IfS and a mix of instruments to help enhance conflict-sensitive programming

SOURCE



Karolina Hedström, EU Delegation to Sri Lanka

CONTEXT

The two-decade-long protracted conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam began to intensify in 2005, with an escalation of hostilities in the north and east; terrorist attacks in Colombo and the south; and steadily rising numbers of civilians killed, abducted, missing and displaced. Over a period of just two years, more than 5 000 combatants and civilians were estimated to have been killed. The 2002 ceasefire agreement was constantly broken and had little deterrent effect on the escalation of violence. In 2008, the government abrogated it; and it became clear that both sides were now openly intent on a military solution, with the prospects for any renewed peace process being very bleak. The official abrogation of the ceasefire marked a clear shift in the Sri Lankan context and a heightening of the state of crisis. First, it was a clear signal of the government's intention to escalate the war effort and seek a military solution; second, it led to the withdrawal of the Nordic Sri Lanka Monitoring Mission, which was mandated to monitor ceasefire violations and whose presence in the field at least provided some confidence to local populations, as well as some independent witnessing and reporting of the actions of armed actors on the ground. The new context in Sri Lanka was thus one of open war without any independent monitoring or reporting — which means that violence and violation of human rights and international humanitarian law were likely to increase. In response, international actors were focusing on saving lives, trying to mitigate the impact of the conflict, supporting vulnerable groups and preventing a deepening of the conflict and the human rights crisis.

CHALLENGES AND OPPORTUNITIES

Four major challenges were identified arising from the escalation of violence and the move into direct open warfare.

- **Situation of internally displaced persons and conflict-affected communities.** In 2008, some 187 000 people were displaced. The lack of an international presence had direct negative impacts on the security of these internally displaced persons. Following the military victory in the east, the government has been engaged in a large return operation, repopulating areas recently recovered from the opposition. This has created severe intercommunity strains and tension between the communities, civil administration, armed forces and law enforcement agencies involved.
- **Deterioration of human rights protection.** In parallel with the intensification of the conflict, the human rights situation deteriorated. Both the armed forces and militant groups were able to commit abuses with impunity. No independent international human rights presence remained, only national human rights structures that were politicised, under-resourced and lacked capacity, or were constrained due to fear and intimidation.

- **Intercommunity tensions and the role of minorities.** Due to the increased tensions and the deliberate targeting of minorities in 'security measures', there was growing insecurity and alienation.
- **Shrinking humanitarian space.** The environment was not conducive for implementation of humanitarian or development work, let alone human rights activism or investigative or critical journalism. The execution-style killing of 17 employees of an international NGO received widespread international attention and, with other violations, clearly marked the shrinking humanitarian space. NGOs were suspending projects or withdrawing from particular areas, thereby depriving affected communities of support.

The opportunities were limited, but it was clear that there were possibilities for mitigating the situation for conflict-affected communities in the north and east, including internally displaced persons and their host communities, by protecting them from the worst impact of the conflict. Similarly, human rights and humanitarian law could be promoted and defended across the country by supporting the systematic exposure and documentation of abuses, improving access and security for humanitarian and development workers.

There were also opportunities for external assistance to prevent increased polarisation of communities and radicalisation of minorities, which could further exacerbate the conflict. Support could provide protection to victims of violations and help address the general sense of frustration among minority groups. It was recognised that limiting the damage to lives and well-being, broadening the space available for humanitarian and human rights work, and limiting the radicalisation of and tensions between different ethnic groups would all potentially help to improve prospects for future attempts at involving all communities in a negotiated, sustainable political settlement to the conflict. Tackling these issues early could therefore help to ensure long-term stability.

ACTIONS TAKEN

An 18-month IfS was prepared and implemented (EUR 6.5 million). The specific objective of the programme was to create an environment where tensions were reduced, civilians affected by the conflict and associated security measures were protected, and a safer and more conducive environment was created for the implementation of development and humanitarian assistance. The main activities were grouped to respond to the challenges identified above: (i) protection of conflict-affected communities, including confidence-building and stabilisation measures; (ii) legal support to civilians affected by arbitrary detention and other human rights violations; (iii) promotion of a safer and more conducive environment for the international aid community through support to the media; and (iv) conflict mitigation through socioeconomic stabilisation measures for particularly vulnerable conflict-affected communities. Each of the four sets of activities became part of individual contracts either with UN bodies or NGOs (local and international).

To ensure that the IfS actions, as well as the other ongoing programmes in Sri Lanka, were conflict sensitive, a forward-looking evaluation was commissioned and funded under the DCI. A highly professional international NGO was contracted to assess the conflict sensitivity of various EU-funded projects and develop lessons and best practices that serve to enhance the positive impact, and reduce any unintended negative impact, of EU-funded activities in Sri Lanka (see the [Sri Lanka case study](#) in Note No 2).

LESSONS LEARNED

- A combination of the IfS and the DCI was instrumental in ensuring high-quality support. Using a combination of instruments led to less time wasted as the IfS (now IcSP) could be used for more urgent actions while DCI programmes were still in preparation.
- It is vital to consider the security and well-being of the staff involved (not only that of the Delegation, but also of its contractors and partners). The agents of change need protection, and the IfS allowed us to finance security measures. It is imperative to ensure that security risk management costs are included in budgets.
- The design of interventions has to be flexible enough to target affected districts rather than just the narrower group of affected communities (i.e. not just tsunami-affected groups, but the whole district), if it becomes apparent that this will reduce tension and conflict.
- IfS funding allowed the Delegation to finance more politically sensitive projects, as well as to take more risks, which may be necessary in a volatile context.
- Ensuring and making budgetary provisions for EU staff, implementing partners and other donors to be trained in or at least made aware of conflict sensitivity was critical to the programme in Sri Lanka at this sensitive time.
- Ensuring that there was a draw-down facility that trusted partners could use for rapid response to sudden new conflicts was extremely helpful.
- Delegations can take advantage of the high flexibility of EU instruments. The IfS (now IcSP) is a highly flexible instrument; it can be operational within two to three months and allows direct contracting. Apart from the quick contracting, its procedures are similar to other instruments and it is highly 'do-able' and does not impose new procedural burdens on Delegation staff.

FURTHER INFORMATION

- <http://www.saferworld.org.uk/resources/view-resource/535-conflict-sensitivity-assessment-of-eu-programmes-in-sri-lanka>
- EU, Country Strategy Paper, Sri Lanka 2007

Overview of SBC experience

CONTEXT

Since implementation of the Budget Support Guidelines in January 2013, several SBCs have been signed, and others are under preparation. The guidelines and 'Concept Note Streamlining the Preparation of State Building Contract Operations' approved by management in December 2012 are available on the EC intranet.

GENERIC LESSONS LEARNED

- An SBC is provided when situations of fragility or transition require action to support transition processes towards development and democratic governance, including sustainable changes in transition societies, to help partner countries to ensure vital state functions and to deliver basic services to populations. Assessments of eligibility for SBCs focus more on forward-looking political commitment and institutional reforms than backward-looking track records, but require stronger political and policy dialogue and, if necessary, closer monitoring and possible targeting of EU funds.
- The 'Concept Note Streamlining the Preparation of State Building Contract Operations' recommends developing SBC road maps for the preparation of SBC operations that identify and address key weaknesses for the design of an SBC in a specific country. They also aim at framing the policy dialogue, including capacity development, with the partner country to allow for and strengthen the use of country systems, 'making the case' for the SBC. It is suggested that the road maps be developed under the leadership of the geographic directorates and in close collaboration with Delegations and with the participation of relevant Headquarters services.
- After more than one year of SBC implementation, it is possible to see some early results and positive effects, such as a faster preparation process, strengthened donor coordination, a more forward-looking approach and a focus on transition.

SBC in Côte d'Ivoire

<p>CONTEXT</p>	<p>In Côte d'Ivoire, the political crisis of the last 10 years followed by the post-electoral crisis of 2010–11 clearly weakened the state and the administration. The situation was considered an exceptional shock. Tailor-made external support through a two-year SBC beginning in October 2012 has seemed adequate in helping the country restart.</p>
<p>CHALLENGES AND OPPORTUNITIES</p>	<p>The main challenges in Côte d'Ivoire were the need to:</p> <ul style="list-style-type: none"> ● consolidate peace and stabilisation; ● improve internal security, justice and health; ● improve public financial management, allowing longer-term budget support to be provided; ● reduce the high levels of poverty; ● trigger inclusive and sustainable growth. <p>Opportunities that the SBC was designed to enhance included improving:</p> <ul style="list-style-type: none"> ● the macro-economic framework; ● public financial management, transparency, audit and control, and the fight against corruption; ● internal security; ● justice; ● health (provision of decentralised services). <p>Elements of the dialogue included progress in:</p> <ul style="list-style-type: none"> ● the national development strategy; ● the macro-economic framework; ● public financial management and transparency and control of budget.
<p>ACTIONS TAKEN</p>	<p>The EUR 115 million SBC (of which EUR 55 million was disbursed in 2012 and EUR 56 million in 2013) provides support fully in line with SBC objectives by supporting the implementation of the national strategy to strengthen the security and justice sectors, and improve public financial management and the macro-economic situation.</p> <p>The choice of indicators for the variable tranche is focused on consolidation of peace and stabilisation through the improvement of internal security (two indicators), justice (two indicators), public financial management (four indicators) and health (two indicators).</p> <p>Nevertheless, the initial two-year duration seemed too short to complete the rebuilding of the state and make the transition towards another type of contract. Therefore a rider was agreed upon, adding EUR 28 million to the SBC and extending it for one more year; a second SBC is in preparation.</p> <p>This SBC is a good example of a forward-looking approach that is likely to create a basis for future budget good governance and democracy and sector reform contracts.</p>
<p>LESSONS LEARNED</p>	<ul style="list-style-type: none"> ● It is better to select a few indicators that are then closely monitored rather than many that are difficult to measure. ● It will often take longer than expected to reach a stage where the SBC has reached its goals.

SBC in South Sudan

CONTEXT

South Sudan faces huge challenges in its efforts towards state-building and transition out of fragility. It is a new country, with an administration under construction. The country is highly dependent on oil exports and afflicted by internal conflicts, as evidenced by the coup of 15 December 2013.

CHALLENGES AND OPPORTUNITIES

There are multiple challenges facing South Sudan. The main challenges the four-year SBC initiated in August 2013 focuses on are:

- the escalating social tensions caused in part by lack of basic services and exacerbated by ethnic divisions;
- inadequate provision of health and education;
- long-term food security and low agricultural productivity.

Opportunities that the SBC was designed to enhance include improving basic services in the education and health sectors by partially covering the salaries of those sectors' employees.

Elements of the dialogue included progress in:

- implementation of the National Development Plan;
- credible, stability-orientated macro-economic policy, a public financial management reform action plan, and public access to timely, comprehensive and sound budgetary information.

ACTIONS TAKEN

The programme consisted of EUR 80 million in budget support to cover the salaries of health and education workers in the government's payroll system for two years and EUR 5 million in complementary support aimed at strengthening the public financial management capacities of local authorities in charge of the delivery of basic services.

Disbursement of the two tranches is subject to a number of conditions, including a rolling audit of the electronic payroll system; agreement on an International Monetary Fund (IMF) staff monitored programme and a New Deal compact, as well as adoption of legislative frameworks on public procurement and the management of oil revenues; and evidence that political, public financial management, developmental, macro-economic and corruption indicators had not deteriorated.

To date, disbursement of the first tranche under the SBC has not been accomplished due to non-compliance with the above-mentioned conditions.

LESSONS LEARNED

- The preparation of the South Sudan SBC was an example of good donor coordination, both locally and at the capital level, with key development partners such as the IMF, the World Bank, the United States and EU Member States.
- With an outbreak of renewed conflict, a contingency plan is needed. At a minimum, arrangements are needed for making an urgent collective review of programming priorities and the continued opportunity and relevance for the SBC in South Sudan.