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IMPACT ASSESSMENT

Accompanying the document

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down general provisions establishing a European Neighbourhood Instrument

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1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Organisation and timing

The drafting of the Impact Assessment (IA) for the European Union (EU) external action instruments for the period 2014-2020¹, including this document, has been coordinated by a **Task Force** composed by services in charge of EU external action and the Legal Service. The **drafting teams** have duly taken into consideration the consultations, reviews and studies mentioned in Section 2 and have liaised with various European Commission (hereafter the Commission) services to ensure consistency with other EU policies. The Task Force met with the drafting team in charge of this Impact Assessment on 7 June, 30 June, 14 July and 2 August 2011 for organisational and quality-check purposes.

The work on the European Neighbourhood Instrument (ENI) was led jointly by the European External Action Service (EEAS) and the Commission. A specific “European Neighbourhood Instrument Impact Assessment Working Group” involving a number of services was set up in May 2011 to provide inputs and comments on the draft IA. The meetings of the Group allowed for early consultations with the relevant EEAS and Commission services before the draft IA was presented to the Inter-service Impact Assessment Steering Group monitoring the preparation of IAs for all external action instruments. The **Steering Group**, composed by the members of the Task Force and representatives of the relevant Commission Directorates General and the Secretariat General as well as of the EEAS, was launched on 22 June 2011. It met twice, on 13 and 26 of July 2011.

The IA was submitted to the IA Board on 5 August 2011. The review of this Impact Assessment by the **Impact Assessment Board** is scheduled on 14 September 2011.

In line with article 27 of the Financial Regulation (Council Regulation (EC, Euratom) No 1605/2002) and article 21 of the Implementing rules of the Financial Regulation (Commission Regulation (EC, Euratom) No 2342/2002), the present impact assessment is the ex-ante evaluation of the European Neighbourhood Instrument (ENI).

1.2. Consultations and expertise

A broad consultation process underpins the IA and the legislative proposal on the European Neighbourhood Instrument. This process consisted of the Public consultation on external funding carried out for all the EU external action instruments on the one hand, and of specific consultations held as part of the Strategic review of the European Neighbourhood Policy (ENP) and those on the Cross-Border Cooperation (CBC) on the other hand. Additionally, consultations were held on the future of EU development policy.

¹ The instruments are the following: Internal Agreement for the 11th European Development Fund, Development Cooperation Instrument, Instrument for Pre-Accession assistance, European Neighbourhood Instrument, Instrument for Stability, Instrument for Nuclear Safety Cooperation, European Instrument for Democracy and Human Rights, Partnership Instrument and the instruments for the EU-Greenland Partnership. The Macro-Financial Assistance instrument, the Common Foreign and Security Policy, the Humanitarian aid instrument and the Civil Protection mechanism are not part of this joint exercise.

Public consultations

Public Consultation on funding for EU external action

The Commission held a public consultation on future funding for EU external action between 26 November 2010 and 31 January 2011. This process was based on an online questionnaire accompanied by a background paper ‘What funding for EU external action after 2013?’ prepared by the Commission and EEAS. The 220 contributions received in response to this public consultation reflect a broad and diverse spectrum representing the variety of structures, views and traditions characterising the external action community.

The majority of respondents confirm that EU financial interventions provide a substantial added value in the main policy areas supported through EU financial instruments for external action². The criterion of EU added value is put forward by many respondents as the main driver for the future: the EU should exploit its comparative advantage linked to its global field presence, its wide-ranging expertise, its supranational nature, its role as facilitator of coordination and the economies of scale.

Nearly all respondents support a more differentiated approach tailored to the situation of the beneficiaries and based on sound criteria, to be used in order to increase the impact of EU financial instruments. There is also wide support for considering conditionality based on the respect for human rights, minorities, good governance and diversity of cultural expressions, or on the quality of beneficiaries’ policies and their ability and willingness to implement them.

Most respondents agree that joint programming and co-financing with Member States can increase the impact and the coherence of EU external action, simplify the delivery of aid and reduce the overall transaction costs.

Consultations in the context of ENP strategic review

The EEAS held specific consultations with representatives of EU Member States and Partner countries covered by the ENP as part of the Strategic review of the policy, launched in July 2010.

The consultations included the financing of the ENP notably through the European Neighbourhood and Partnership Instrument (ENPI), alongside the issues of the long-term ENP vision and the ENP medium-term objectives. The ENP Strategic review resulted in the Joint Communication of the High Representative of the EU for Foreign Affairs and Security Policy and the European Commission “A new response to a changing Neighbourhood” (COM (2011) 303) adopted on 25 May 2011.

The consultations revealed that the ENPI was seen as a step change in the way EU assistance was delivered. However, the need for further refinement was also recognized. Many Member States underlined the importance of improved coherence between the policy and the financial assistance provided by the instrument. Several respondents highlighted that allocations should be based on performance. Many also stressed the importance of making financial support faster, more efficient and more flexible in responding to emerging needs. A group of Member

² i.e. peace and security, poverty reduction, humanitarian aid, investing in stability and growth in enlargement and neighbourhood countries, tackling global challenges, promoting EU and international standards and values, and supporting growth and competitiveness abroad.

States advocated decentralised implementation, and some called for strengthening EU Delegations.

Partner countries underlined the need to accompany economic integration, market opening and regulatory convergence with appropriate financial support. The importance of promoting foreign investment was also emphasized.

There was a unanimous perception that ENP Action Plans had been very useful as a central policy tool. There was also a strong demand for successor documents to better steer EU and ENP partners' joint efforts and facilitate a more effective use of resources from the national and EU budgets. This involves more focus, clearer sequencing and more measurable benchmarks.

Stakeholder consultations on Cross-Border Cooperation

Specific consultations on CBC have taken place with all stakeholders. The process was launched during a CBC Conference in Brussels in February 2011. The stakeholders were consequently consulted on the future regulatory framework (including on the CBC Implementing Rules) on the basis of a questionnaire circulated in May/June 2011. The outcomes reflect the need to adapt some provisions to strengthen efficiency of the future CBC. The aim of the suggested changes is to better reflect integration between EU foreign policy priorities with the EU Cohesion Policy, especially by further approximation of the CBC on external EU borders to the European Territorial Cooperation (ETC) rules.

Public consultations on "EU development policy"

In addition, the Commission launched a Green Paper "EU development policy in support of inclusive growth and sustainable development" with a public consultation from 15 November 2010 to 17 January 2011. Many respondents underlined that ODA³ constitutes only a fraction of funding for development, to be seen as a complement to domestically mobilised resources, foreign investments, trade and remittances. A demand was also made for greater coherence in EU development policy especially with regards to middle-income countries. While joint programming of assistance was endorsed in principle, it should be introduced gradually starting with countries where it would yield demonstrable added value.

1.3. Impact Assessment Board

The Impact Assessment Board meeting took place on 14.09.2011. The opinion received by the board was taken fully into account and the Impact Assessment Report as well as the Impact Assessment Report Summary were modified accordingly.

2. PROBLEM DEFINITION

³ Official Development Aid

2.1. The problem requiring action and the scope of the instrument regulation

The Treaty on European Union (TEU) in its article 8 provides specifically for developing by the EU of a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness at the EU's borders, founded on the values of the Union and characterized by close and peaceful relations based on cooperation. This dedicated article, introduced by the Lisbon Treaty, emphasises the growing importance of the EU relationship with its neighbours.

The EU policy towards its neighbours, the ENP, was launched in 2004 following the EU enlargement in the same year, in order to avoid the emergence of new dividing lines between the enlarged EU and its neighbours and to strengthen the prosperity, stability and security of all. The ENP is addressed to 16 partners to the East and South of the EU's borders, notably to Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, the Republic of Moldova, Morocco, the occupied Palestinian territory, Syria, Tunisia and Ukraine. The ENP is supported through a dedicated instrument, the ENPI, which covers the 16 above-mentioned partners and Russia.

Within the ENP the EU offers the neighbours a privileged relationship, building upon a mutual commitment to values such as democracy and human rights, rule of law, good governance, market economy principles and sustainable development. The policy also provides for political association and deeper economic integration, increased mobility and enhanced people-to-people contacts. On the basis of jointly agreed priorities, the EU supports partners in implementing reforms to improve their standards of democracy and human rights, to increase their access to the EU's single market, to improve the environment and to step up their cooperation with the EU on issues such as climate change, energy, transport, Information and Communication Technologies (ICT) and migration.

Since the launch of the ENP a number of important developments have taken place, in particular:

- deepening of relationship with the neighbours, notably through the launch of Association Agreement negotiations in the East and processes to upgrade relations (e.g. *statut avancé*) in the South;
- related to the above, the progressive differentiation of partners;
- qualitative change of the partnership with Russia, with the "Partnership for Modernisation" launched in 2010;
- launch of the regional dimensions: the Union for the Mediterranean, the Eastern Partnership and the Black Sea Synergy, the EU Strategy for the Baltic Sea and the EU policy for the Arctic region;
- stability concerns in the ENP region (notably Middle East, Belarus, Georgia);
- democratic transition processes initiated in several countries in the Southern Neighbourhood.

This evolving relationship called for a new response that was elaborated as a result of the Strategic review of the ENP. The Joint Communication of the High Representative of the EU

for Foreign Affairs and Security Policy and the European Commission “A new response to a changing Neighbourhood” of 25 May 2011 outlines the new ENP vision and builds on the Joint Communication “A Partnership for Democracy and shared Prosperity with the Southern Mediterranean” adopted on 8 March 2011. The new approach provides notably for greater support to partners committed to building democratic societies and undertaking reforms, in line with a “more for more” principle, and therefore for a greater differentiation. The associated principle of “mutual accountability” in turn implies the EU commitment to deliver on policy offers made, notably in the field of market access and mobility. The Eastern Partnership Summit to take place in September 2011 in Warsaw will offer a possibility to further strengthen the relationship with the partners in the East.

Neighbours committed to these objectives will be offered closer economic integration and stronger political and sector cooperation with a particular focus on climate change and the environment, energy, transport and technology, knowledge and innovation. Enhanced support to partners engaged in credible reforms will come in various forms, including increased funding, greater market access, increased support to investments, support for free and uninterrupted access to information and communication means and greater facilitation of mobility. Within the renewed ENP there is also more emphasis on rural development and strengthening of social, economic and territorial cohesion.

Financial support to the Neighbours is provided notably through the ENPI. Set up by Regulation 1638/2006 of 24 October 2006, the instrument had been endowed with an envelope of EUR 11.8 billion for the period 2007-2013 and covers the 16 ENP partners as well as Russia.

The core of the financial intervention in the Neighbourhood is delivered through country programmes (about 75%), which foster ownership, allow for coherence of EU action with country policies and ultimately enhance their impact. The rest is delivered through multi-country programmes and through specific CBC programmes targeting beneficiaries from the EU and neighbours’ border regions. The CBC constitutes a unique example of external cooperation where partners have full ownership and participate on an equal footing with EU Member States in the decision-making process and setting up joint projects over the external EU border, with a single set of rules.

The current ENPI support is provided through a number of aid modalities, including budget support, project approach, twinning with Member States’ administrations, technical assistance and blending mechanisms. It brings under the same umbrella bilateral, regional and Cross-Border Cooperation with countries formerly dealt with through two separate regulations (TACIS⁴ and MEDA⁵).

2.2. Review of evaluation reports

As a relatively new instrument, the ENPI as a whole has not yet been subject to dedicated evaluations. However the Mid-term review of the instrument, featuring lessons learned as well as some assessments, outline the major aspects that need to be considered in the future, to accompany the revised policy framework.

⁴ Technical Aid to the Commonwealth of Independent States

⁵ MEDA programme used to be the main financial instrument for implementing the Euro-Mediterranean Partnership

2.2.1. Results of Mid-term review of the financial instruments for external actions (2009)

The ENPI Mid-term review carried out in 2009 concludes that on the whole the ENPI has gone a long way towards addressing its declared objectives. Programming documents have become more geared towards supporting the implementation of ENP Action Plans, their scope reflects the scope of the partnerships between the EU and the partners, and their budget reflects the “ambition” of such partnerships. Multi-country programmes have been instrumental in supporting ENP flagship initiatives and the ENP regional dimensions, both in the South and in the East.

As for implementation issues, the ENPI has at its disposal a broader range of tools than its predecessors MEDA and TACIS and this allows for a more effective and efficient delivery of assistance. Through implementation mechanisms such as twinning and TAIEX⁶, EU public sector expertise is made available for institution building to partners engaged in legislative approximation and regulatory alignment. Budget support operations are instrumental to promote the reform agenda agreed in the context of the ENP Action Plans and the monitoring of such operations allows for a deeper policy dialogue with the partners.

The Mid-term review concludes that the provisions of the ENPI Regulation appear adequate to sustain cooperation with neighbouring countries provided that the following two issues are addressed.

The first one concerns the issue of “revolving funds”, the possibility to use reflows from previous operations of the International Financial Institutions (IFIs) in order to strengthen the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) and the Neighbourhood Investment Facility (NIF) to which the ENPI contributes. The ambiguity of the ENPI Regulation on this issue and the resulting lack of the use of the reflows hamper the Union’s ability to support private sector operations.

Secondly, the Review considers the financial envelope for the ENPI to be very tight and not allowing the support of new and ambitious regional initiatives while simultaneously responding to “protracted” crisis situations.

The Mid-term review was finalised in 2009 and therefore could not take into account new developments that have happened since and the new policy context.

2.2.2. Study on legal instruments (2011)

The study on Legal Instruments conducted in 2011 identified many positive results that come from the evaluations of the instruments preceding the ENPI (MEDA and TACIS) but that are also relevant to the ENPI. It appears that the support provided has made a positive contribution to the development of trade relationships between the EU and the ENP partners, and to the development of the private sector. Some positive results have been achieved in the water and social sectors and in the support to Civil Society.

According to the study, budget support is successfully supporting comprehensive structural/sector reforms, avoiding the gaps and “stop-go” effect of a project approach. Whilst this requires stronger public financial management (PFM), budget support does also

⁶ Technical Assistance and Information Exchange instrument

contribute, when successful, to improvements in the PFM. In particular, budget support appears to be efficient when combined with policy dialogue and capacity building. It has contributed to the formulation, implementation and acceleration of reforms that were nationally owned and considered as important by the EU. Other aid delivery mechanisms such as the project approach or twinning remain very effective to support reforms. They can also be successfully deployed in combination with budget support.

Mixed results were noted in cases where interventions were unsustainable, in particular because of the scarcity of financial resources available.

From the findings of the study, the following points have emerged that could be useful for the design of the future assistance to the Neighbourhood:

- (1) There seem to be indications of limited coherence between the programming process and implementation. No evidence was found that all the priorities expressed in the country strategies were subsequently carried throughout the programming chain and assistance.
 - (1) Budget support is bringing good results in support of comprehensive structural/sector reforms and allows for avoiding the gaps and “stop-go” effect of a project approach. Other aid delivery mechanisms such as projects or twinning remain effective in targeted reforms.
- (2) Respecting ownership is key to ensuring success.

2.2.3. Court of Auditors report on the Southern Caucasus

The Special Report of the Court of Auditors on the ENPI in the Southern Caucasus⁷ highlights challenges related to the programming process. The Report states that the lengthy programming and design process does not suit the fast changing environment of the Southern Caucasus, thus endangering the relevance of the assistance. It notes further that the usefulness of the programming work is reduced by insufficient prioritisation and weak links between the ENP Action Plans and Country Strategy Papers and National Indicative Programmes. It also concludes that the areas selected for assistance do not derive clearly enough from the programming documents.

The key recommendations include: further prioritisation during the programming process, with the guiding objective of offering ENP Partner Countries the prospect of an increasingly closer relationship with the EU; rationalizing (merging) the strategic documents; strengthening the links between strategic programming documents and annual action programmes and avoiding successive cycles of approval.

The above assessment can be considered equally relevant for the programming process for most of the ENP Partners.

2.3. Review of lessons learnt

In terms of lessons learnt, a number of issues have emerged since the launch of the ENPI, related directly or indirectly to the design of the instrument. A long programming process and

⁷ Court of Auditors Special Report No 13/2010: “Is the new European Neighbourhood and Partnership Instrument successfully launched and achieving results in the Southern Caucasus (Armenia, Azerbaijan and Georgia)?”

incomplete alignment of the financial assistance with the policy and priorities specified in the ENP Action Plans and other relevant documents have often been pointed at as major challenges to be addressed in the future. The split of the ENPI allocation between the East and the South (programming) has been a delicate matter overshadowing, on a number of occasions, major policy issues. Coordination and coherence with interventions under other instruments are important issues. Provisions allowing for joint activities with partners/regions outside the geographical scope of the ENPI have been instrumental to implement a number of activities and should be maintained.

Horizontal issues that are of much relevance to the ENPI include flexibility and ability to react to crisis and unforeseen situations. In the Neighbourhood, addressing protracted crisis remains one of the key challenges. Any solution within the ENPI will need to be coherent with the political choices on the future Instrument for Stability (IfS) (notably its scope and size) and its relationship with geographic instruments. The current mechanisms for rapid interventions in case of crises have functioned well and should be further strengthened.

Among the objectives of support 29 thematic areas of cooperation are specified in the ENPI Regulation. While this allows for flexibility, such an approach has led to a dispersion of efforts, fragmentation of aid and a blurred vision of the ENP. More prioritisation would facilitate better coherence between assistance and political ambitions in key fields.

The limited flexibility of the ENPI to re-allocate funds has sometimes proved to be an obstacle in responding to emerging needs. The current programming procedures make the re-allocation of funds outside the Mid-term review relatively difficult and therefore limit the possibility of applying differentiation between countries on the basis of their actual merits. The current programming process is thus not well suited to apply the “more for more” principle that is central in the new ENP vision. The introduction of the Governance Facility was an attempt towards applying performance incentives through ex post financial top-ups to best performers. However, the ENP review has highlighted that the financial incentives provided in this form have not been a driver for change.

Consideration needs to be given to how monitoring can be enhanced, including with regard to strengthening the link between policy dialogues and assistance programmes (including technical assistance). It is furthermore important that the ambition of the policy is matched with adequate tools to implement it. Consideration should also be given to how the technical assistance/TAIEX can be developed, possibly through extending the scope of the mechanism to include elements such as training and case studies. Furthermore, cooperation in the field of statistics should be enhanced.

ENPI assistance has been used to leverage loans from financial institutions to finance infrastructure investment projects and to support the private sector through loans and risk capital operations. This is done with the European Investment Bank (EIB) in the context of the FEMIP and with the EIB, the European Bank for Reconstruction and Development (EBRD) and other European financial institutions in the context of the NIF. The cooperation with IFIs should be further enhanced through the use of innovative tools. The use of revolving funds could help strengthen the impact of this cooperation.

Addressing competition issues for better working markets and institutions outside the EU is another important issue. Along with other policy objectives such as a well-functioning public

administration and an independent judiciary safeguarding the enforceability of contracts, an effective competition policy creates a business environment facilitating economic growth.

Two main political initiatives have shaped the regional cooperation in the Neighbourhood: the Eastern Partnership (EaP) in the East and the Union for the Mediterranean (UfM) in the South. The EaP aims to accelerate political association and further economic integration between the EU and the six EaP countries and within the EaP region, and to support political and socio-economic reforms in these countries. At the heart of the initiative is the EU offer to significantly upgrade contractual relations with partners by concluding Association Agreements, where possible including Deep and Comprehensive Free Trade Areas. The multilateral approach has proven successful in supporting reform through the exchange of best practice on subjects of common interest, such as good governance, economic integration, energy efficiency and contacts between people. The UfM is an important initiative to foster regional cooperation with and within the southern Neighbourhood, with key initiatives focussing for instance on the de-pollution of the Mediterranean Sea and the establishment of maritime and land highways which connect ports and improve rail connections to facilitate movement of people and goods. Nevertheless, the past years have shown that some measures need to be taken to revitalize this initiative and to enhance cooperation in these key areas. In the future, it is important to continue to promote and support an efficient regional dimension, including through the deployment of transnational ICT services and infrastructures. The 8th March Communication establishing “A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean” is a step in that direction.

Globally, regional cooperation has proved its added value notably in fostering regional synergies and networks in crucial areas of common concern such as environment, climate change, energy, sustainable development, Small and Medium Enterprise (SME) development, media and freedom of expression, research, ICT and youth mobility. Regional cooperation has also proved very effective when being conducted at intraregional level (South and East): a number of programmes are “twins” (civil protection, private investments promotion) with a southern and an eastern focus. The CBC has also played an important role, and the mechanism of split commitments used with CBC programmes has proved useful.

2.4. The underlying drivers of the problem

Policy problems

The changing relationship with the neighbours and developments since the establishment of the ENP have been analysed and assessed in the framework of the ENP Strategic review that resulted in the new policy orientations outlined in section 2.1. The new ENP vision calls for adapting the current framework through which support to the ENP partners is provided.

While the ENPI has been widely recognized as a successful instrument to accompany the EU policy towards its neighbours, the renewed ENP policy as well as assessments, the Mid-term review and lessons learned point towards a number of issues that should be reconsidered in the future to allow for an even more effective EU response.

Specific problems linked to the instrument

Application of the “more for more” principle

The “more for more” principle is the key element of the renewed Neighbourhood Policy, as enshrined in the Joint Communication “A new response to a changing Neighbourhood”. The new approach provides for a much higher level of differentiation among partners, in line with their commitment to the jointly agreed values and objectives, and notably to the partnership with EU focussed on democracy and shared prosperity. Partners that go further and faster with reforms notably those related to democratic standards and rule of law will be able to count on greater support from the EU. This approach will already be applied in the allocation of funds to some partner countries under the current financial perspectives, in the framework of the SPRING package (“Support for Partnership, Reforms and Inclusive Growth”) for Southern Mediterranean, funded by an additional allocation to the ENPI.

The new vision goes beyond funding, with an offer of deeper political association and economic integration for those who credibly follow the path of democracy and a reforms agenda. The “more for more” principle and mutual accountability therefore needs to be reflected in all aspects of the relationship with the neighbours, especially with regard to the bilateral cooperation. Financial incentives for most ambitious reformers feature as an important element of the new approach and as a policy-driven instrument, the future ENI should reflect this key principle, notably as regards programming and allocation of support to the partners.

The current ENPI Regulation in its article 7b indicates the key parameters taken into account in the allocation of support. While it provides some room for modulating initial allocations on the basis of ambitions and achievements of the partners, it only allows for limited flexibility in varying the allocations, essentially following a mid-term review of the programming process. The current system therefore constrains the possibility to apply differentiation and the “more for more” approach in real time on the basis of specific progress indicators. These provisions have so far proved of limited impact in terms of triggering reforms and democratization process. The use of Governance Facility attributed to some ENP countries and rewarding performance through ex post financial top-ups has not been a sufficient driver for change.

Complexity and length of the programming process

The procedure for the programming process is outlined in article 7a of the ENPI Regulation (for bilateral and multi-country programmes) and in article 9 for the Cross-Border Cooperation. Article 7 provides for Strategy Papers and Indicative Programmes for country and multi-country programmes. The Strategy Papers and Indicative Programmes shall reflect the policy framework and the jointly agreed Action Plans or other equivalent documents that are the key point of reference for setting assistance priorities.

The current programming process includes a number of broad consultations and many other procedural steps. In practice, with the current set-up, for all programmable external action instruments the programming takes on average 18 months. The priorities identified through the programming are the basis for the assistance that follows.

The scope of the programming documents has been another aspect. The current Country Strategy Papers under the ENPI follow the format used for development cooperation. As such they provide for an extensive analysis of the situation in a given country in a number of areas

which adds to the length of the process. In the case of the Neighbourhood however the reality is different and the country analysis for most partners (countries that have concluded an Action Plan or an equivalent set of joint objectives with the EU) is described annually through dedicated Progress Reports making the general part of the Country Strategy Paper redundant. Programming documents tend to include a wide range of priorities. This is a reflection of the length of the programming process, and an attempt to provide flexibility for the implementation that intervenes at a much later stage.

As recommended by the Special Report of the Court of Auditors referring to Armenia, Azerbaijan and Georgia, linkages should be strengthened between the ENP Action plans and the relevant programming documents. There is therefore both need and opportunity to streamline, shorten and better focus the programming process, notably for ENP partners with Action Plans or equivalent documents that identify jointly agreed priorities between EU and ENP partners. The new programming documents should be better aligned and fully reflect these priorities.

Scope of the instrument

The scope of the ENPI is defined in article 2 of the Regulation. While article 2.1 refers to the implementation of partnership and cooperation agreements, association agreements or other relevant agreements, promotion of good governance and equitable social and economic development, article 2.2 is a very broad list of 29 thematic areas of cooperation referred to in a detailed manner and on an equal footing⁸. The programming reflects this wide approach and in a number of cases coherence between the policy and cooperation has been a challenge.

The current set up of 29 thematic areas of cooperation offers very little visibility of the objectives and the focus of the ENP. They result to a large extent from the willingness of various stakeholders to include all the possible specific fields of cooperation that could be supported under broader provisions of the Regulation, while maintaining the necessary flexibility for the programming process. The future legislative proposal for the ENI offers the possibility to better streamline the scope of the instrument while maintaining its current flexibility, notably through regrouping the current set of 29 thematic areas into a few generic areas of cooperation encompassing specific objectives of cooperation⁹

Partly outdated implementation provisions and lack of coherence between the external instruments

The implementation section of the current ENPI Regulation is outdated in some parts and therefore no longer adequately reflects the way assistance in the Neighbourhood is

⁸ Examples of thematic areas referred to in article 2: supporting cooperation aimed at protecting historical and cultural heritage and promoting its development potential, including through tourism; supporting administrative cooperation to improve transparency and the exchange of information in the area of taxation in order to combat tax avoidance and evasion; supporting reform and strengthening capacity in the field of justice and home affairs, including issues such as asylum, migration and readmission, and the fight against, and prevention of, trafficking in human beings as well as terrorism and organised crime, including its financing, money laundering and tax fraud;

⁹ Examples: Progressive integration in the EU internal market, enhanced sector co-operation, creating conditions for well managed mobility of people and for promoting people-to-people contacts;

implemented. There is also lack of coherence between the implementation provisions of the ENPI and other external action instruments. Flexibility mechanisms can be further enhanced and eligibility criteria widened to match the new policy context. In terms of eligibility, the importance of Civil Society Organizations (CSOs) in the neighbourhood region has been growing constantly over the last years, but in Art. 14 on Eligibility CSOs are not explicitly mentioned, which does not reflect sufficiently the good work already done together with CSOs in the ENP region, especially concerning promotion of good governance, rule of law and human rights.

CBC provisions

The Cross-Border Cooperation has been a distinct feature of the relationship between the EU, ENP partners and Russia allowing for joint initiatives with a common set of rules on both sides of the EU borders. Currently the CBC programmes benefit from an overall budget of around EUR 1 billion (contributions from the ENPI and the European Regional Development Fund, ERDF). They are managed according to specific Implementing Rules (IR), which use shared management as a guiding principle but contain significant elements of EU rules and procedures for external action (PRAG).

While the ENPI Regulation indicates the main principles and key orientations of the CBC with the neighbours as well as the main implementing provisions, the CBC Implementing Rules are set in detail in a dedicated Regulation.

The system is functioning relatively well although consultations with stakeholders demonstrate the need for some changes which may have an impact on the provisions of the Regulations, especially concerning:

- potential extension of geographical eligibility to encompass the important economic, social and cultural centers as relevant for the proper functioning of the programmes;
- full application of “shared management”, involving Member States as signatories of Financing agreements;
- co-financing by partner countries;
- specific status of Russia.

As a consequence, specific modifications with respect to these issues would allow for a more effectively functioning mechanism.

Far-reaching changes will be required also in the Commission Regulation laying down the CBC Implementing Rules, mainly with regard to the management modalities.

Linkages with internal instruments/policies

The ENP provides for a gradual political association and progressive economic integration of the partners with the EU and EU internal policies are key references in this process. In the case of the Neighbourhood, a number of initiatives have a transboundary aspect which so far has been addressed only to a very limited extent. The notable exception is the Cross-Border

Cooperation that allows for addressing common challenges and objectives through a single set of rules and through pooling resources from both the internal and external funding sources of the EU budget.

In other areas, such as infrastructure, energy, SME development and industrial cooperation, ICT, higher education, research and innovation, environment and cooperation on maritime affairs, there is scope for strengthening the linkages between the relevant internal policies and instruments and the ENP and the European Neighbourhood Instrument. This entails strengthened cooperation with the relevant Commission services both at the programming and at the monitoring stage. In addition, there is a need for mainstreaming climate considerations into all policy sectors, as well as ensuring a tracking mechanism to measure such progress. This will be essential in order to prepare partners to address complex challenges such as mitigation of and adaptation to climate change.¹⁰

Furthermore, strengthened linkages with internal instruments/policies could be achieved through replicating the example of Cross-Border Cooperation, notably pooling of funds from various internal and external funding sources of the EU budget and implementing them with a single set of rules also in other policy areas, such as infrastructure interconnections. Also, extending of funding from internal instruments to the Neighbourhood could be envisaged, as appropriate.

The ENP offer includes the possibility for ENP partners to participate in EU agencies and programmes. This requires an appropriate financial contribution from the ENI. The issue of long-term financing of ENP partners' participation in EU agencies and programmes thus needs to be adequately addressed by the future instrument, including the establishment of appropriate, sustainable delivery mechanisms.

Evolving relationship with Russia

Russia is the only beneficiary of the ENPI not covered by the ENP. The legal basis for EU relations with Russia is the Partnership and Cooperation Agreement (PCA) which came into force in 1997. The EU is currently working with Russia on a new agreement to replace the PCA. In 2003, the EU and Russia agreed to reinforce their cooperation by creating four "common spaces".¹¹ The EU-Russia Partnership for Modernisation was launched in 2010 and is now in its implementation phase.

Financial cooperation with Russia began in the early 1990s, under the TACIS programme, which has been replaced by the ENPI. As all other countries, Russia is entitled to benefit from both the bilateral, multi-country and cross-border ENPI funding. However, given the significant recent improvements in Russia's fiscal position, the need for large volumes of financial assistance has declined. Russia aspires to a relation of equals and has become a donor itself. As a result, in the period 2007-2013 the country received only marginal allocations under the bilateral envelope of the ENPI. Cooperation within the framework of

¹⁰ Regarding instruments under the EU budget, in order to reach the Europe 2020 objectives and to help other parts of the world step up their efforts to combat climate change, the Commission has stated in the June 2011 Communication on "A Budget for Europe 2020" that it intends to increase the proportion of climate-related expenditure across the EU budget to at least 20%, with contribution from different policies, subject to impact assessment evidence.

¹¹ The Common Economic Space; the Common Space on Freedom, Security and Justice; the Common Space on External Security; and the Common Space on Research, Education and Culture.

multi-country programmes continues and is carried out according to the principle of co-financing by the EU and Russia. Most notably, Russia is co-financing CBC programmes. This reflects the evolving position of Russia as a strategic partner where co-financed projects should be in both sides' interest.

Providing support to Russia through the ENPI has not fully reflected the specific status of Russia, as both a Neighbour and a strategic partner. Russia is also the only partner benefitting from the ENPI that is not covered by the ENP. The need to better align geographic eligibility of the future ENI with the policy and to address specific status of Russia should to be taken into account in the future MFF.

2.5. Legal base for EU action

Article 8 of the TEU provides the orientations and the basis for the ENP. The legal base for the financing instrument to support the ENP is **article 209.1 TFEU**¹² and **article 212.2 TFEU**.

2.6. EU Value Added

The EU is best placed to deliver and coordinate

In neighbourhood countries where alignment to EU rules and standards is one of the key policy objectives, the EU is best placed to deliver this assistance. Some specific support can only be provided at EU level, for example to promote progressive economic integration in the EU internal market, access to the Schengen space or participation in EU programmes. Thus the EU is the leading cooperation partner in most of these countries, a role widely recognised by Member States, IFIs and other donors. Helping the EU neighbours to align with EU policies, rules and standards is a key driver for reforms in the ENP partner countries. The benefits to the EU of increased stability and prosperity at its borders are vital to all Member States. Through EU coordination and efforts for instance fighting illiteracy amongst women in Morocco has been achieved successfully, or improvements to the water and sanitation system in Moldova could have been realized. These projects wouldn't have been such a success without the coordinating and leading role of the EU.

The EU has a **network of international agreements** with partners and organisations all over the world, not matched by individual Member States, which gives them influence in almost all fields of external relations with our partner countries.

The EU plays a multi-faceted role in development: as an implementing agent of EU aid and as an EU coordinator and policy-maker in the development field, as an economic and trade partner, through security policy and political dialogue, as well as through other EU sector policies – such as migration, climate or energy.

The EU as a global player

In the Neighbourhood, the EU is already delivering the lion's share of the external assistance and this confirms the EU's role as a key player in the region and on the international stage.

12 Treaty on the functioning of the European Union

In a globalised world, the added value of joined-up EU development cooperation is clearly established in comparison to 27 member States and the Commission acting on their own.

In the face of increasingly complex challenges, none of the EU's internal priorities – security, growth and job creation, climate change, access to energy, health and pandemics and migration - will be achieved in isolation from the wider world.

The critical weight of the EU

With 27 Member States acting within common policies and strategies, the EU alone has the critical weight to respond to global challenges. The action of Member States can be limited and fragmented, with projects which are often too small to make a sustainable difference in the field.

This critical mass also puts the EU in a better position to conduct policy dialogue with partner governments. The ENPI assistance reflecting priorities of the jointly agreed ENP Action Plans is generally accepted by all EU Member States, as well as by other international donors as a model example of combining development assistance programmes with a transformation reform agenda. For these reasons the EU-produced matrices of assistance are often treated as points of reference for the donor coordination in the ENP countries.

Division of labour within the EU is a crucial component of its added value. With its network of international agreements with partners and organisations all over the world, the EU is a natural coordinator, and can influence almost all fields of international relations, which individual Member States, acting within common policies and strategies, cannot do alone. Streamlining the work of Member States through the EU enables better coordination and makes EU work more effective. The EU is also more efficient in coordinating the technical and financial assistance to all neighbourhood countries under a common umbrella based on a common strategy than the individual Member States.

Acting as one makes financial sense

At a time of budgetary restrictions, when several Member States have chosen to exit entire sectors of cooperation and withdraw from supporting certain countries, the EU is able to play an active role in promoting democracy, peace, solidarity, stability and prosperity and poverty reduction in the Neighbourhood. In this context, it makes more sense than ever from a purely economic perspective to channel aid at EU level where a real difference can be made. Acting through the EU can actually save money for Member States.

Working with the EU is cheaper. Administrative costs are lower than the average administrative costs of the principal donors for bilateral aid.

In the Neighbourhood the ENPI, apart from its unquestionable role as provider of the bulk of international assistance, has also a strong leverage effect mobilising funds from IFIs and other donors. The EU's commitment to partners gives a positive signal to investors that the support by individual Member States may not bring to the same extent.

In times of economic crisis, **a more coordinated and integrated approach** between the EU and its Member States through joint programming will bring about more added value, increased strength and legitimacy, and more **impact and effectiveness**.

Greater accountability

Acting as one makes the EU more accountable than acting separately. In addition, the Commission is one of the most transparent aid bodies in the world. Such transparency is in itself an important tool to ensuring effective value for money.

3. OBJECTIVES

3.1. Policy framework and objectives

The key objectives of the ENP are set by Article 8 of the TEU as developing a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighborliness at the EU's borders, founded on the values of the Union and characterized by close and peaceful relations based on cooperation. Funding provided to the neighbours, notably through the ENPI, follows these strategic objectives and should continue to do so.

The specific objectives for the future instrument consist of responding to a number of challenges identified as specific problems, based on the new policy orientations outlined in the section 2.1, as well as on assessments and lessons learned.

Specific objectives of the future instrument

- Apply the principle of “more for more” and mutual accountability in line with the new vision of the ENP, notably through specific provisions on criteria for financial allocations and on the programming process, as required;
- Address the complexity and length of the programming process in order to streamline, shorten and better focus the process, notably for ENP partners which have jointly agreed with the EU strategic priorities through Action Plans or other equivalent documents;
- Streamline the scope of the instrument with the appropriate balance between the flexibility of the instrument and its focus on the policy objectives and key areas of cooperation;
- Adapt the implementation provisions and improve the coherence between the external instruments;
- Provide for improved provisions for the Cross-Border Cooperation to facilitate effective and fast implementation of the programmes;
- Promote closer linkages with EU internal instruments and policies, including through strengthened cooperation with the relevant Commission services at the programming stage and, where relevant, mechanisms allowing for pooling of funds from internal and external headings of the EU budget;
- Respond to the evolving relationship with Russia by amending provisions on Russia's eligibility to the ENI funding, reflecting the specific status of Russia both as EU neighbour and strategic partner.

3.2. Consistency with external action priorities

The Lisbon Treaty defines a new institutional framework for the Union's external action. This is intended to promote the coherence of EU stance and enhance the EU standing on the international scene. The EU needs to equip itself with a long-term political strategy for external action and an appropriate toolbox that should pursue the following strategic objectives:

1. Promoting and defending EU values abroad. Through the European Neighbourhood Instrument the EU will promote transitional and democratic processes and strengthening of civil society around its borders;
2. Projecting EU policies in support of the EU 2020 agenda for smart, sustainable and inclusive growth. With the ENI, the EU will support addressing major global challenges and assist relevant reforms benefitting both the EU and the partner countries;
3. Increasing the impact of EU development cooperation, with the primary aim of eradicating poverty. Through the ENI, the EU will assist partner countries in meeting development challenges according to their needs, capacities, interests and commitments and the potential for impact. The ENI will also help improve EU coordination and Policy Coherence for Development;
4. Investing in the long-term prosperity, stability and democracy in the EU Neighbourhood. The aim of establishing an area of stability, prosperity and democracy is the primary objective of the ENI and the renewed Neighbourhood policy. Priority will be given to support EU regional and bilateral policies, including thematic ones, in the wider Neighbourhood. The democratic transition processes in the southern Mediterranean and their possible effects in the wider region make it necessary to better support the aspirations of these societies for democratic values and principles and for a more equitable distribution of the benefits of growth, whilst pursuing the goals of greater political cooperation and integration with the neighbours, both in the South and in the East. This includes an increased focus on engagement with civil society actors.
5. Improving crisis prevention and resolution. The ENI should allow for an enhanced and more flexible support to crisis prevention and resolution in the Neighbourhood.

Support to the EU neighbours through a dedicated, targeted and policy-driven instrument endowed with financial resources corresponding to the ambitions of the renewed ENP is thus clearly in line with the major priorities of the EU external action.

However, continued complementary assistance to the ENP region will also need to be provided through a number of other external action instruments that have contributed so far:

Policy instruments

- Under the five thematic programmes in the framework of the Development Cooperation Instrument specific programmes have been implemented in the Neighbourhood;
- Dedicated programmes have received support under the European Instrument for Democracy and Human Rights;
- The Instrument for Nuclear Safety Co-operation has provided assistance to those countries that have a civil nuclear programme.

Crisis response instruments

- The Instrument for Stability, both its short and long-term component, has provided substantial funding to the region;
- Instrument for Macro-Financial Assistance has also made available substantial funding in the Neighbourhood;
- Humanitarian Assistance Instrument.

The EU will ensure that activities funded under other external action instruments do not overlap and are deployed coherently with activities funded under the new ENI. The ENI and the other external instruments will continue to include provisions to facilitate funding for those regional activities which geographically cover countries that are outside a given instrument's scope (e.g. INOGATE programme¹³). The EU will also coordinate with financing activities of the EIB, including under its external mandate, the EBRD, and other IFIs.

3.3. Consistency with other EU policies

Development Policy

The recent people-led movements in a number of countries in the Southern Neighbourhood have clearly highlighted that sound progress on the Millennium Development Goals (MDGs) is essential, but not sufficient. Same is valid for good marks in the Human Development Index and related indicators on inequality, gender and multidimensional poverty. This leads to two conclusions: first, that the objectives of development, democracy, human rights, good governance and security are intertwined; secondly, that it is critical for societies to offer a future to young people.

As set out in the Communication, "Increasing the Impact of EU Development Policy: an Agenda for Change", in future the EU should seek to focus its offer to partner countries where it can have the greatest impact and concentrate its development cooperation on support for:

- democracy, human rights and other key elements of good governance, and
- inclusive and environmentally sustainable growth for human development.

These elements can also be found in the Joint Communication "A new response to a changing Neighbourhood". The future instrument should contribute to implementing and further pursuing these goals, in line with the above-mentioned development objectives.

Through comprehensive political and policy dialogue with all partner countries the EU will define the most appropriate form of cooperation, leading to informed and objective decisions on the most effective policy mix, aid levels, financial instruments and aid arrangements.

Internal policies

¹³ The INOGATE Programme is an international energy co-operation programme between the European Union and the Partner Countries of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

Through the ENP the EU offers greater trade and investment opportunities within a market of 500 million people. This provides attractive opportunities to the Neighbourhood and makes a genuine contribution to stimulating growth, prosperity and stability. Turning this offer into reality requires a progressive economic integration in the EU internal market and into the relevant policies, such as social policy, consumer protection, food safety, health, energy, climate action, environmental protection, fisheries policy, integrated maritime policy and research and innovation. It also implies interconnection of networks, regulatory convergence at sectoral level, institution building and possibilities for partners to participate in EU programmes and agencies when possible. Best practice and experience in the cohesion and rural development policies will be shared with the partners to address common challenges. This also means effective support to partners in the implementation of international and regional agreements.

The ENP Action Plans provide comprehensive blueprints for such integration efforts and the future ENI will continue to support their implementation. In this context, national and regional programmes will provide a comprehensive framework for supporting partners' approximation efforts in a wide range of sectors and their integration into specific EU policy initiatives. This will help avoid a multiplication of initiatives, ensure coherence in the approach, foster ownership among beneficiaries and ultimately enhance effectiveness and impact. The ENI will also be key in promoting investment in partner countries including in the areas of transport and energy interconnections, environment and climate change, including through research and innovation capacity building, and an enhanced use of innovative financial instruments.

Given the objective of the ENP to foster closer integration between the EU and the partner countries, provisions for a better coordination of EU internal and external policies in the Neighbourhood should be strengthened, including through closer cooperation with relevant Commission services at the programming stage and, where relevant, use of mechanisms allowing for pooling of funds from internal and external headings of the EU budget.

This could notably apply to areas of cooperation such as infrastructure with cross-border dimensions, in particular transport and energy networks, the ICT sector¹⁴ and other networked industries, as well as higher education and the environment area given their strong cross-border component. Increased ENI support on building capacities in research and innovation would help underpinning all of the above areas of cooperation and assist all partner countries in alignment with EU policies and objectives in order to address global and regional challenges.

Increased synergies with the EU internal policies and the related use of innovative financial instruments should be sought, on the basis of a coordinated approach to engaging EU budget in such instruments. This could facilitate pooling of resources from different headings of the Multiannual Financial Framework.

4. POLICY OPTIONS

¹⁴ Deployment of ICT services and infrastructures, impact of the Internet on growth, freedom and expression of democratic values can not be underestimated

- 4.1. **Option 0: “No EU Action”**; the EU discontinues its financial support through a dedicated instrument for the Neighbourhood.

Discontinuing EU action would mean not establishing a new dedicated financial instrument in support of the ENP after 2013. Since according to Art. 32 of the Regulation (EC) 1638/2006 of 24 October 2006 the current ENPI will not apply beyond 31 December 2013, this option would thus mean that the ENP partners would stop receiving a substantial amount of financial assistance in the areas currently supported by the ENPI. This option would not allow the EU to further the objectives of the ENP as set out in article 8 of the TEU, nor to fulfil the ambitions of the renewed ENP vision outlined in the Joint Communication “A new response to a changing Neighbourhood”.

- 4.2. **Option 1: “No change”**; cooperation with the countries concerned remains strictly in the framework of the existing ENPI Regulation- **baseline scenario**.

The baseline scenario implies maintaining the status quo and continuation of the EU support to the region in its current form and with the current geographic and thematic scope. While providing funding according to the current rules allows for a predictable support to the partners in many policy areas, this option would hardly allow for matching the ambitions of the Lisbon Treaty, integrating new developments in relations with the Neighbours, as well as for implementing the new ENP vision, including the “more for more” principle. In particular, all the specific problems and challenges identified in this IA could not be appropriately addressed.

- 4.3. **Option 2: "Adapting the current set-up"**; the legislative proposal for the future ENI should be based on the current ENPI Regulation with a number of modifications.

Article 8 of the Lisbon Treaty and the new ENP vision of a closer, democratic, prosperous and stable Neighbourhood, with each partner country reaping the benefits of a tailored and differentiated approach, call for adapting the future financial instrument for the Neighbourhood to the increased level of ambition of the renewed ENP. The more so as implementing such a vision is not without challenges for the partners that have to undertake difficult and costly reforms before the benefits become fully visible.

The future ENI should notably target reaching the main objectives of the new ENP vision and addressing the specific problems and challenges identified in this IA. The sub-options identified below outline main choices to be considered.

Applying the “more for more” principle

Sub-option 1: Maintaining the status-quo

Maintaining the current provisions on allocation of funds and programming would make it difficult to fully apply the principles of “more for more” and “mutual accountability” which feature as the central aspects of the renewed ENP.

Sub-option 2: Amend provisions on the allocation of funds and programming

Amending relevant provisions on the allocation of funds and the programming process would allow for a more differentiated approach to the Neighbours in line with the “more for more”

principle and thereby for aligning the financial instrument to the new vision of the ENP. This new vision is predicated on an incentive-based approach. Differentiating between countries, it offers "more for more": those that go further and faster with reforms notably those related to democratic standards and rule of law will be able to count on greater support from the EU. This is of key importance to the EU as further democratization and sector reforms are essential elements of building the area of prosperity and good neighbourliness around EU borders.

The "more for more" approach will be applicable to the full spectrum of incentives proposed by the EU: to policy developments as well as to the financial assistance. The main benchmarks to be used to assess whether a country is genuinely engaged in the democratisation process and whether it can expect to benefit from the increased incentives offered by the EU are defined in the Communication "A new response to a changing Neighbourhood":

- free and fair elections;
- freedom of association, expression and assembly
- free press and media;
- the rule of law administered by an independent judiciary and right to a fair trial;
- fighting against corruption;
- security and law enforcement sector reform (including the police) and the establishment of democratic control over armed and security forces.

The above criteria are illustrative and cannot be the only criteria by which support is determined.

Application of the "more for more" principle could include a dedicated performance reserve and indicative allocations being established within a specific range ("fourchette").

Addressing the complexity and length of the programming process

Sub-option 1: Maintaining the status-quo

Maintaining the current programming process would ensure predictability of support to the partners but would not address the challenge of limited coherence between the programming and implementation identified as a specific problem and a major weakness. It also would not allow for improving the efficiency of the programming process and responding to the EU commitment to simplify programming embedded in the renewed ENP.

Sub-option 2: Amending provisions on programming

Amending the relevant provision on programming would allow for simplifying and streamlining the programming process in line with the orientations set out in the renewed ENP.

The new provisions on programming would provide for two types of programming documents:

a) for the partners that have concluded Action Plans or other equivalent documents with the EU, a single, light programming document based on priorities defined within the Action Plans (or other equivalent documents) and commitments entered into by partner countries, including commitments taken in the context of the EaP or UfM, would replace the Strategy Papers and the Indicative Programmes.¹⁵ This document, named a Single Support Framework (SSF), based on priorities of Action Plans or other equivalent documents will review progress in relation to policy framework, list priorities for EU support and their indicative level of funding.

b) for partners that have not concluded Action Plans or other equivalent documents with the EU, the Strategy Paper and Multiannual Indicative Programme will remain. The Strategy paper will define a response strategy and the MIP will define priorities for support and the indicative level of funding. The Strategy papers and MIPS will also remain for multi-country programmes.

The new provisions allow therefore for introducing for the majority of the partners a lighter programming document (SSF), aligned to jointly agreed objectives. The new system allows also for differentiation of partners from the point of view of their relationship with the EU.

Streamlining the scope of the instrument

Sub-option 1: Maintaining the status-quo

Maintaining the current approach would allow for a flexible and comprehensive programming but would limit the visibility of the focus of the ENP and could lead to the dispersion of support.

Sub-option 2: Amending the provision on the thematic scope

The streamlined scope of the instrument would offer an enhanced visibility of and focus on broad policy objectives and a strengthened link with the ENP. Under this approach the possibility to address various sectoral aspects according to the specific needs of the partners and mutual interests (including, where appropriate, the adoption of or alignment with the *acquis* and the participation of neighbouring countries in EU agencies and programmes), with choice of priorities at the programming stage, would be maintained but within a streamlined framework, regrouping the current set of 29 thematic areas into a few broader chapters. Progressive integration in the EU internal market will be one of the key specific objectives, and others will include notably promotion of human rights and fundamental freedoms, establishment of deep and sustainable democracy, promotion of good governance and development of a thriving civil society; enhanced sector co-operation, institution building and investments; creating conditions for well managed mobility of people and for promoting people-to-people contacts; sustainable and inclusive development in all aspects, poverty reduction, promotion of internal economic, social and territorial cohesion and rural development; confidence building and other measures contributing to the prevention of and settlement of conflicts; sub-regional, regional and neighbourhood wide co-operation as well as Cross-Border-Cooperation.

¹⁵ The current practice of producing a Country Environmental Profile for each beneficiary country, as an important tool to promote the consideration of environmental issues from the beginning of the cycle of operations, should be continued.

This sub-option would therefore allow for addressing the specific problem identified with respect to the issue.

Amending and updating of implementation provisions and addressing the lack of coherence between external instruments

Sub-option 1: Maintaining the status-quo

The current implementation provisions have functioned well in the past and enable an efficient implementation of EU assistance in partner countries. However, some aspects are outdated and keeping the current provisions would neither adequately reflect the way assistance to the Neighbourhood is provided nor the new policy framework of the ENP. Maintaining the status-quo would also maintain the lack of coherence between the ENI regulation and the implementation chapters of regulations setting up other external instruments. Concerning flexibility in crisis situations, the current regulation already has a well-functioning mechanism, but nevertheless the current procedure limits flexibility and speed of reaction to crisis and would need to be reinforced in order to respond to future crisis situations.

Sub-option 2: Adapting implementation modalities

Adapting the implementation modalities would allow to better reflect the way assistance is implemented in the ENP region. Updating article 15 on “Type of Measures” or widening the scope of article 14 “Eligibility” e.g. by explicitly including Civil Society Organisations would be more in line with the new ENP vision. Including a reference to the use of innovative financial instruments such as the NIF would make the chapter more complete. A revision of article 23 could allow for establishing revolving funds. Reinforcing the flexibility elements of the regulation (i.e. special measures), including the definition of specific forms of flexible support for countries in a situation of fragility, transition or crisis, would enable to better meet the challenges of future crisis and possibly further speed up the process of aid delivery in these exceptional circumstances.

To facilitate the coherent implementation of multi-annual measures and ensure faster and more effective delivery of assistance, consideration should be given to apply to part of the mainstream financial assistance the mechanism of split commitments used under structural funds and ENPI CBC.

Moreover the coherence between all external assistance instruments could be improved by using a more harmonised approach throughout all the instruments.

Providing for improved provisions for the Cross-Border Cooperation

Sub-option 1: Maintaining the status-quo

Maintaining the current system would in principle allow for continuation of the CBC although it is not unlikely that the interest in and commitment to this form of cooperation by some stakeholders would diminish. This would in turn seriously hamper the CBC and limit its potential.

Sub-option 2: Adapting the CBC provisions

Adapting some of the current CBC provisions would be beneficial to the overall functioning of the CBC programmes. These changes would be welcomed by the partners (Member States

and neighbours) as they would address many of the shortcomings identified in the current programming period.

In addition, amending the relevant CBC implementing rules is strongly required to address the complexity of the current system as identified by the stakeholders. This would also help improve the effectiveness of the programmes and facilitate their timely implementation.

The main modifications will consist of:

- stronger alignment with the European Territorial Cooperation;
- extension of geographical eligibility in order to encompass the important economic, social and cultural centers, as relevant;
- full application of “shared management”, involving Member States as signatories of Financing agreements and introducing possibility to use other forms of management
- introducing provisions on national co-financing, including the substantial Russian co-financing.

Facilitating closer linkages with EU internal instruments and policies

Sub-option 1: Maintaining the status-quo

Maintaining the current system would allow for further pooling of resources from the ENI and the ERDF in the CBC context but would not provide explicitly for replicating this system to other internal policies and instruments. While in practice a relevant contribution from ENI would still be possible, the lack of specific provisions could seriously limit the opportunities for this kind of cooperation.

Sub-option 2: Improving provisions for coordination and linkages with internal instruments/policies

Strengthening provisions, through the introduction of a new dedicated Article referring to linkages and coordination with EU internal policies and instruments, including through, where technically feasible and if agreed in the new MFF framework, pooling of funds from the ENI and relevant internal instruments notably for programmes/initiatives with transboundary aspects, such as transport and energy networks, the ICT sector and other networked industries as well as research and innovation (‘Horizon 2020’), higher education and the environment area, would allow for a more effective support to initiatives that serve the common interest of the EU and partners.

These provisions would need to be mirrored by specific provisions in the relevant internal instruments.

Responding to the evolving relationship with Russia

Sub-option 1: Maintaining the status-quo

Maintaining the current set-up would facilitate coherence and effective implementation of multi-country initiatives and programmes in which the EU, Russia and ENP partners

participate. However, it would hardly allow for addressing the evolving nature of EU relations with Russia and recognising Russia's status as a strategic partner.

Sub-option 2: Amending provisions on Russia's eligibility to the ENI funding

Amending the current provisions by transferring the bilateral cooperation with Russia to the newly created "Partnership Instrument" targeting inter alia the EU's strategic partners, while maintaining Russia as eligible for multi-country programmes under the ENI, would allow for addressing both the "strategic partner" and the "neighbour" dimension of the EU's relationship with Russia. It would also facilitate coherence and effective implementation of multi-country initiatives and programmes gathering the EU, Russia and ENP partners. This will also allow for a closer alignment of the bilateral cooperation under the future ENI with the geographic scope of the European Neighbourhood Policy.

4.4. Option 3: "Table a completely new instrument"

A new financial instrument with a different geographic scope and focussing on objectives broader or different than those of the ENP could be considered. Such an instrument could include either other partners or split the neighbourhood countries, possibly into two blocks (East and South). However, in the light of the Lisbon Treaty and the renewed ENP vision that provides for a continuation of a consolidated policy framework, drifting away from the current geographical set-up would hardly allow for reaching the EU's objectives with regard to the Neighbourhood. Since the current ENPI provides a very relevant basis for the future support to the ENP partners and requires only adaptation of the current set-up, there is neither rationale nor added value in tabling a new instrument.

5. ANALYSIS OF IMPACTS

5.1. Likely economic, social and environmental impacts of each of the options

Option 0: "No EU action"

The ENPI provides support for a wide range of measures with positive economic, social and environmental impacts in the neighbourhood region (see below impacts for option 1). Discontinuing EU action through a dedicated instrument, which provides the bulk of financial assistance to the Neighbourhood, would substantially reduce impacts in all three areas and would endanger the sustainability of the impacts achieved so far. Compared to the other options, it would thus have negative economic, social and environmental impacts. In terms of global impact, choosing this option would also dramatically and negatively affect the overall EU relations with the ENP partners and harm the special relationship with these countries as "neighbours".

Option 1: "No change" – base-line scenario

Economic impact

With ENPI support partner countries adopt policies and measures conducive to stronger and more inclusive growth. This includes support for efforts to improve the business environment such as simplifying procedures and catering to SMEs and to promote employability. Support is also provided to Public Financial Management (PFM) reforms. Partner countries' efforts to strengthen respect for the rule of law and to fight corruption, supported by the ENPI, also

have a positive impact on the business environment, facilitating increased foreign direct investment and technology transfer which in turn stimulate innovation and job creation.

Furthermore, infrastructure projects to which the ENPI has contributed also play an important role in stimulating growth and development. Nevertheless, maintaining the status quo might hinder the development of new innovative facilities and investment schemes, which would improve even further the leverage of EU financial aid.

Social impact

The ENPI supports various projects and programmes with a considerable social impact in partner countries, including in the areas of education, health and social protection. Support is provided, inter alia, to increase school enrolment rates, to increase literacy rates, to reform education and health care systems and to support vulnerable layers of the population and people in conflict areas. This support allows also for strengthening capacities of the relevant national institutions, advancing the relevant reforms and the modernisation of schooling.

Women are being empowered, in particular through education and vocational training. Dedicated measures allow for improving living conditions of Internally Displaced Persons (IDPs) and refugees and facilitate their socio-economic integration with host communities. The relevant state institutions are also being strengthened.

The current instruments fails to react sufficiently fast and flexibly enough to crisis and unforeseen events in the neighbourhood countries, e.g. to the democratic transition processes initiated in several countries in the Southern Neighbourhood. This means that also support to civil society or to social assistance programmes might be delayed in such crisis situations.

Environmental impact

The ENPI supports a number of measures aimed at promoting environmental sustainability in partner countries, including through projects in the areas of renewable energy, environmentally friendly transport systems and water management.

As many of the environment challenges facing ENP partners have a trans-boundary character, ENPI regional programmes have in a number of cases tackled issues where national action would not be sufficient, for instance in the field of air quality and water management. Several regional projects have achieved important results, and in many cases regional cooperation with country-specific features have proved to be more efficient than purely bilateral cooperation.

In the field of environment-related infrastructure, there has been a positive effect of upstream work on investments e.g. through the Mediterranean Hot Spot Investment Programme (MeHSIP). Such project preparation work, as well as the NIF financing of projects themselves, has enabled ENPI assistance to provide a catalytic bridge between the expectations of partners/identification of problems and the implementation of projects by the IFIs.

Environmental issues are being mainstreamed, where relevant, into activities having a main objective other than environmental protection. For example, for NIF financing of projects other than environmental ones such as transport or energy projects, the Commission seeks to ensure that EU environmental principles and standards are applied as far as possible thereby avoiding potential negative impacts on the environment.

However in the current set-up there are limits to adequately react to the launch of the regional dimensions and to the potential they have for projects and initiatives in the environmental sector.

Other impacts

In terms of impact on governance, the current ENPI promotes the reform-driven agendas and the fulfillment of commitments within the ENP. However, so far results in this area have been limited.

At a global level, maintaining the current Regulation would still enable the EU to continue supporting the key objectives of the ENP and to build special relationships with the neighbours. Nevertheless this option would not allow for addressing fully the objectives outlined in the Lisbon Treaty and for delivering on the commitments adopted within the new ENP vision, with its increased focus on promoting deep and sustainable democracy.

Option 2: "Adapting the current set-up"

Economic impact

With the modified instrument partner countries would be further supported in adopting policies and measures conducive to stronger and more inclusive growth. This includes support for efforts to improve the business environment such as simplifying procedures and catering to SMEs and to promote employability. Partner countries' efforts to strengthen respect for the rule of law and to fight corruption, encouraged by the application of the "more for more" principle, will have a stronger positive impact on the business environment, facilitating increased foreign direct investment, research, innovation and technology transfer, stimulating innovation and job creation.

A streamlined programming process would enhance the relevance of assistance which would allow for a more targeted response to the challenges of growth and development. Improved implementing rules for the Cross-Border Cooperation would strengthen the economic and social impact of the CBC programmes.

Social impact

A streamlined programming process would enhance the relevance of assistance which would allow for a more targeted response to social challenges. Improved implementing rules for the Cross-Border Cooperation would strengthen the social impact of the CBC programmes. Other social impacts would remain as in the case of option 1.

Environmental impact

In addition to the positive impacts outlined under option 1, this option would provide for more focused sectoral cooperation that will include environmental cooperation allowing the EU and partner countries to pursue a higher level of environment protection aimed at enforcing higher standards of air and water quality, improved environmental governance, higher resource efficiency, protection of biodiversity and ecosystems, and supporting the necessary infrastructure investments.

Furthermore, a streamlined programming process would enhance the relevance of assistance which would allow for a more targeted response to environmental challenges. In particular, addressing complex research-based challenges, such as mitigation of and adaptation to climate change and sustainable management of biodiversity, requires an enhanced Cross-Border Cooperation between the ENP countries as well as with the EU. Furthermore, improved implementing rules for the Cross-Border Cooperation would strengthen the environmental and climate change impact of the CBC programmes.

This option would have the highest positive environmental impact.

Other impacts

The application of the “more for more” principle should significantly strengthen the impact of EU support on governance in partner countries and encourage them to enhance their commitment to the deep and sustainable democracy and to undertake far-reaching reforms.

At a global level, amending the current Regulation would have the most positive impact on the overall EU relations with the ENP countries. The proposed adapting of the current set-up would make the new Neighbourhood Instrument more effective and more flexible; it would allow for meeting the objectives of the Lisbon Treaty and the new ENP vision.

Option 3: "Table a completely new instrument"

The economic, social and environmental impacts of an instrument with a different geographic scope and following wider or different objectives than those of the ENP can hardly be assessed in the given timeframe. However, in terms of coherence with the ENP objectives, the impacts could hardly be positive.

At a global level, a new instrument with different and widened scope and objectives would affect the credibility of the EU as an external player in the ENP region and would be inconsistent with the new policy framework. Moreover, the option of possibly splitting the instrument into two geographical instruments would undermine the key objective of an area of prosperity and good neighbourliness at the EU's eastern and southern borders. It could also widen the rift among EU Member States.

5.2. Impacts on external action, in particular on Policy Coherence for Development

There is no clear impact on Policy Coherence for Development (PCD) of either option 0, option 1 or option 3. However, option 2 with sub-option 2 designed to facilitate closer linkages with EU internal instruments and policies could be beneficial in improving the coherence for development, in particular through an increased possibility to pool funds from the ENI and relevant internal instruments notably for programmes/initiatives with transboundary aspects, such as transport and energy networks, the ICT sector and other networked industries as well as research and innovation, higher education and the environment area. This would in turn result in a more effective support to this kind of initiatives that serve the common interest of the EU and partners.

By improving the PCD through option 2 (notably the sub-option 2 on facilitating closer linkages with EU internal instruments and policies) the future Instrument would also contribute to the general coherence of EU external action.

5.3. Impact in terms of management / implementation modalities

Adapting the current ENPI Regulation as proposed would have a positive impact in terms of implementation modalities, for instance through strengthening the flexibility of the instrument to respond to crisis and simplifying implementation modalities and enhancing their coherence with other external action instruments. The proposed changes will allow for reducing transaction costs of implementation while increasing the impact and therefore the instrument's value for money.

6. COMPARING THE OPTIONS

6.1. Weighing of positive and negative impacts per option

Option 0: No EU action

While discontinuing EU action would save money for the EU in the short term, the long-term effects in many areas, including trade, economic and social development, the environment and climate change would have a negative effect on both the EU and on the partner countries. Stability and security implications need also to be taken into account. This option would be tantamount to re-nationalise the EU policy towards the Neighbourhood. It would seriously undermine the credibility of the EU as a global actor and abruptly reduce the EU's role in its Neighbourhood. In addition, it would neither allow the EU to further the objectives of the ENP as set out in article 8 of the TEU nor allow the EU to fulfil the ambitions of the renewed ENP vision.

Option 1: No change

While option 1 allows for a number of positive economic, social and environmental impacts, it hardly allows for matching ambitions of the Lisbon Treaty, integrating new developments in relations with the partners and implementing the new ENP vision.

Option 2: Adapting the current set-up

Option 2 would allow for achieving stronger positive economic, social, environmental and governance impacts than those identified for option 1, through addressing a number of specific challenges and problems identified since the launch of the current instrument. The following measures would need to be undertaken:

- Amending provisions on Russia's eligibility to the ENI funding
- Amending provisions on the allocation of funds and programming
- Amending provisions on the programming process
- Amending provision on the thematic scope
- Amending provisions on implementation
- Amending provisions on CBC

- Including specific provisions related to internal instruments/policies, including financing of participation of partners in EU agencies and programmes

Such an approach would notably facilitate matching the ambitions of the renewed ENP with the dedicated tool for support to the ENP partners.

Option 3: Table a completely new instrument

Assessing economic, social and environmental impacts of option 3 is difficult. However it would clearly limit the potential of reaching the objectives of the consolidated ENP vision. It could even lead to undermining the renewed ENP.

6.2. Trade-offs and synergies associated with the options

Options 0 and 3 need to be discarded as they do not offer a viable framework for cooperation with the ENP partners based on the objectives of the renewed ENP vision. Option 2 offers the best potential to adjust the current cooperation framework in line with the evolving policy context, to reap the benefits of the new EU relationship with the Neighbours, to improve coherence of EU external action in the region and to address challenges and weaknesses identified. Option 1 is the second-best option as it allows for maintaining support to the ENP partners within a consolidated and single framework, yet it does not provide for meeting fully the objectives of the new ENP vision nor for addressing the challenges and specific problems identified within the current set-up.

6.3. Preferred option

The preferred option is option 2, consisting of adapting the current set up, with all the indicated sub-options numbered as sub-options 2. Option 2 and the indicated sub-options are expected to have the highest positive economic, social, environmental and global impact.

7. MONITORING AND EVALUATION

7.1. Core indicators of progress towards objectives

Progress towards meeting policy and specific objectives of the new Neighbourhood Instrument can be assessed through indicators referring to:

1) Main policy objectives

- Furthering the conditions for close co-operation between the EU and its Neighbours and for regional and multiregional integration (area of good neighbourliness), measured notably through (a) number of agreements and Action Plans or other relevant documents in place; (b) level of implementation of Action Plans or equivalent documents and other commitments as reflected by annual Progress Reports;
- Promoting democracy, human rights, rule of law and development of civil society, consolidating democratic transitions and contributing to the peaceful Neighbourhood measured notably through (a) level of implementation of political priorities of Action Plans or other equivalent documents as reflected by annual Progress Reports, (b) indices of the relevant international organisations and bodies reflecting the levels/trends of security and stability, governance, democracy and respect for human rights and fundamental values;
- Supporting EU Neighbours' economic and sector reforms and promoting further integration with the EU and among neighbouring countries themselves measured notably through (a) level of implementation of the ENP economic reform agenda and of the sectoral priorities of the Action Plans as reflected by annual Progress Reports; (b) socio-economic evolution as reflected by survey-based indices compiled by the relevant international organisations and bodies.

2) Specific objectives identified for the future instrument

- i. Application of the “more for more” principle, measured notably through furthering beneficiaries' commitment and alignment to core values, joint commitments, strengthened political cooperation and economic integration with the EU, as reflected notably through annual Progress Reports;
- ii. Adaptation of the programming process, reflected notably through (a) reducing the length of the programming cycle and (b) level of coherence between programming and financial assistance;
- iii. Scope of the instrument, reflected notably through (a) enhanced focus of the programming on the main policy objectives and (b) level of coherence between programming and financial assistance;
- iv. Adaptation of implementation, reflected notably through (a) level of flexibility to provide assistance in case of urgent needs and crisis, (b) level of participation of civil society in the relevant EU assistance programmes and (c) coherence with other external assistance instruments;
- v. Adaptation of the Cross-Border Cooperation, reflected notably through (a) number of CBC programmes, (b) establishment, launch and implementation of CBC programmes;

- vi. Linkages with external policies, reflected notably through (a) cases of pooling of funds from internal and external headings of the budget as appropriate and (b) improved performance of partner countries in the relevant policy areas as measured through annual Progress Reports;
- vii. Relationship with Russia, reflected notably through number of inter-regional and Cross-Border Cooperation programmes in which Russia participates;

In practice the operational objectives will need to be customized to the situation in each beneficiary country and would be set in the programming documents based on the challenges identified. As the new ENI will be an enabling Regulation establishing the essential elements and the basis for the EU intervention, the specific cooperation objectives for each country and region will be defined through programming and the actions will be defined notably at the implementation stage with details on activities to be carried out by the EU, including the objectives pursued by the actions in question and the expected results. Specific indicators will be fixed at that moment, taking into consideration the particularities of the action in question.

The above said, future monitoring and evaluations will have to take into account that:

- because of the heterogeneity of beneficiaries, with varying needs, capacities and performance, the instrument may be able to achieve more results in some contexts than in others;
- because the instrument will continue to focus on the wide ENP objectives as defined in the TEU and the relevant policy documents, it could be difficult to identify progress resulting exclusively from the instrument, except at the level of specific activities;
- many of the “results” of the future assistance, such as progress in meeting the political benchmarks will be by their nature difficult to measure;
- to some extent the objectives of the instrument may be achieved through other EU measures (political, trade, etc) as much as through the results of the EU financial interventions;
- given the difficult context for evaluation, the relative weight of absorption as a measure for assessing progress should not be overestimated.

7.2. Outline for monitoring and evaluation arrangements

The Commission’s Monitoring and Evaluation systems are increasingly focussed on results. They involve internal staff as well as external expertise. Task Managers in EU Delegations abroad and in Headquarters continuously monitor the implementation of projects and programmes in various ways, including wherever possible through field visits. Monitoring provides valuable information on progress; it helps managers to identify actual and potential bottlenecks, and to take corrective action.

Furthermore, the Commission also conducts strategic evaluations of its policies, from programming and strategy to the implementation of interventions in a specific sector (such as health, education etc), in a country or region, or of a specific instrument. These evaluations are an important input to the formulation of policies and the design of instruments and

projects. These evaluations are all published on the Commission's website and a summary of the findings is included in the Annual Report to the Council and the European Parliament.

The EU has committed itself to mainstreaming action on climate and biodiversity and for this to be meaningful it needs to be accompanied by an obligation to identify relevant programmes so that the EU is able to set out clearly how much of its spending relates to these global challenges. Clear benchmarks, monitoring and reporting rules need to be established. Expenditure that promotes climate action¹⁶ or energy efficiency as well as the protection and sustainable management of biodiversity and ecosystems, will be tracked using a system that reflects the established Organisation for Economic Cooperation and Development (OECD) methodology ("Rio markers").

¹⁶ Regarding instruments under the EU budget, in order to reach the Europe 2020 objectives and to help other parts of the world to step up their efforts to combat climate change, the Commission has stated in the June 2011 Communication on "A Budget for Europe 2020" that it intends to increase the proportion of climate related expenditure across the EU budget to at least 20%, with contribution from different policies, subject to impact assessment evidence.