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NOTE

from:	Presidency
to:	Friends of the Presidency group (MFF)
Subject:	Multiannual Financial Framework (2014-2020) - Section of the Negotiating Box relating to Heading 1 (cohesion and CEF)

Delegations will find enclosed the sections of the Negotiating Box relating to Heading 1 (cohesion and CEF).

The Negotiating Box is drawn up and developed under the responsibility of the Presidency. It is not binding on any delegation. This will remain the case throughout the negotiating process. The Presidency continues to be guided by the principle that nothing is agreed until everything is agreed.

The Negotiating Box is not a report on the discussions so far. It draws on the input provided by the orientation debates held since July 2011 and has an evolving character. Gradually, as the process advances, it will be updated following discussions within the Council.

Please note that all numbers in [] reflect the Commission's proposal. This is done in order for Member States to identity the relevant provisions easily. It is not the intention to distinguish between numbers purely reflecting the Commission's proposals and Xs.

HEADING 1 - COHESION AND CONNECTING EUROPE FACILITY

COHESION POLICY

1. The objective of cohesion policy is to reduce disparities between Europe's regions and to contribute to the Europe 2020 Strategy for smart, sustainable and inclusive growth throughout the European Union. For this purpose, cohesion policy must therefore concentrate on the less developed regions and Member States. Through the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF), it will pursue the following goals: "Investment for growth and jobs" in Member States and regions, to be supported by all the Funds; and "European territorial cooperation", to be supported by the ERDF. The Cohesion Fund will support projects in the field of environment and transport trans-European networks.

2. The structural and cohesion funds will be brought together with the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF) under a the Common Strategic Framework - in order to maximise their effectiveness and optimise synergies. This will involve defining a list of thematic objectives in line with the Europe 2020 Strategy.

3. As regards the structure of the Heading and considering the specificities of cohesion policy, cohesion expenditure [and the CEF] will be contained within a [sub-ceiling] OR [sub-heading] under Heading 1.

Overall level of allocations

4. The level of commitments for cohesion policy will not exceed :

COHESION POLICY (Million euros, 2011 prices)						
2014	2015	2016	2017	2018	2019	2020
X	X	X	X	X	X	X

5. Resources for the "Investment for growth and jobs" goal will amount to xx % of the global resources (i.e., a total of EUR xx) and will be allocated as follows:
   (a) xx % (i.e., a total of EUR xx) for less developed regions;
   (b) [xx % (i.e., a total of EUR xx) for transition regions;]
   (c) xx % (i.e., a total of EUR xx) for more developed regions;
   (d) xx % (i.e., a total of EUR xx) for Member States supported by the Cohesion Fund;
   (e) xx % (i.e., a total of EUR xx) as additional funding for the outermost regions identified in Article 349 of the Treaty and the northern sparsley populated regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the Treaty of Accession of Austria, Finland and Sweden.

6. To ensure a balanced distribution of investment between the ERDF and the ESF, the minimum percentage of resources allocated to the ESF shall be:
   (a) [25%] of the amount for less developed regions
   (b) [40%] of the amount for [transition regions]
   (c) [52%] of the amount for more developed regions

7. [The support from the Structural Funds for food for deprived people under the "Investment for growth and jobs" goal will be EUR xx.]

8. Resources for the "European territorial cooperation" goal will amount to xx % of the global resources available for budgetary commitment from the Funds for the period 2014 to 2020 (i.e. a total of EUR xx), which will be distributed as follows:

   (a) xx % (i.e., a total of EUR xx) for cross-border cooperation;

   (b) xx % (i.e., a total of EUR xx) for transnational cooperation;

   (c) xx % (i.e., a total of EUR xx) for interregional cooperation.

9. [xx%] of the global resources will be allocated to technical assistance at the initiative of the Commission.

Definitions and eligibility

10. Resources for the "Investment for growth and jobs" goal will be allocated to three types of regions, defined on the basis of how their GDP per capita, measured in purchasing power parities and calculated on the basis of Union figures for the period [2007 to 2009], relates to the average GDP of the EU-27 for the same reference period, as follows:

    (a) less developed regions, whose GDP per capita is less than [75 %] of the average GDP of the EU-27;

    (b) [transition regions, whose GDP per capita is between [75% and 90%] of the average GDP of the EU-27] OR [whose GDP per capita for the 2007-2013 period was less than 75% of the EU-25 average but whose GDP per capita is above 75% of the GDP average of the EU-27 on average in [2007-2009]

    OR

    [Other provisions concering regions whose GDP is between [75%] and [90%] of the EU average.]

    (c) more developed regions, whose GDP per capita is above [90 %] of the average GDP of the EU-27] OR [all regions not covered under 10a and 10b)].

11. The Cohesion Fund will support those Member States whose gross national income (GNI) per capita, measured in purchasing power parities and calculated on the basis of Union figures for the period [2008 to 2010], is less than [90 %] of the average GNI per capita of the EU-27 for the same reference period.

12. For cross-border cooperation, the regions to be supported will be the NUTS level 3 regions of the Union along all internal and external land borders other than those covered by programmes under the external financial instruments of the Union, and all NUTS level 3 regions of the Union along maritime borders separated by a maximum of 150 km, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation programme areas established for the 2007-2013 programming period.

13. For transnational cooperation, the Commission will adopt the list of transnational areas to receive support, broken down by cooperation programme and covering NUTS level 2 regions while ensuring the continuity of such cooperation in larger coherent areas based on previous programmes.

14. For interregional cooperation, support from the ERDF will cover the entire territory of the Union.

Allocation method

Allocation method for less developed regions

15. The specific level of allocations to each Member State will be based on an objective method and calculated as follows :

    Each Member State's allocation is the sum of the allocations for its individual eligible regions, calculated according to the following steps:

    (i) determination of an absolute amount (in euro) obtained by multiplying the population of the region concerned by the difference between that region's GDP per capita, measured in purchasing power parities (PPS), and the EU 27 average GDP per capita (PPS);

(ii) application of a percentage to the above absolute amount in order to determine that region's financial envelope; this percentage is graduated to reflect the relative prosperity, as compared to the EU 27 average, of the Member State in which the eligible region is situated, i.e.:

- for regions in Member States whose level of GNI per capita is below [82]% of the EU average: [3.3]%
- for regions in Member States whose level of GNI per capita is between [82]% and [99]% of the EU average: [2.1]%
- for regions in Member States whose level of GNI per capita is over [99]% of the EU average: [1.7]%;

(iii) to the amount obtained under step (ii) is added, if applicable, an amount resulting from the allocation of a premium of [EUR 800] per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the EU less developed regions applied.

(iv) [to the amount obtained under step (iii) is added, if applicable, an amount resulting from the allocation of a premium of EUR [4] per person per year, applied to the population of cities with more than 250,000 inhabitants.]

16. The result of the application of this methodology is subject to capping as defined in paragraph 37.

Allocation method for transition regions

17. [The specific level of allocations to each Member State will be based on an objective method and calculated as follows :

Each Member State's allocation is the sum of the allocations for its individual eligible regions, calculated according to the following steps:

(i) determination of the minimum and maximum theoretical aid intensity for each eligible transition region. The minimum level of support is determined by the average per capita aid intensity per Member State [before [two third] regional safety net and urban population bonus] allocated to the more developed regions of that Member State. The maximum level of support refers to a theoretical region with a GDP per head of [75%] of the EU27 average and is calculated using the method defined in paragraph 15(i) and (ii) above. Of the amount obtained by this method, [75%] is taken into account.

(ii) calculation of initial regional allocations, taking into account regional GDP per capita trough a linear interpolation of the region's relative wealth compared to EU-27;

(iii) to the amount obtained under step (ii) is added, if applicable, an amount resulting from the allocation of a premium of [EUR 400] per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the EU less developed regions applied;

(iv) [to the amount obtained under step (iii) is added, if applicable, an amount resulting from the allocation of a premium of EUR [4] per person per year, applied to the population of cities with more than 250,000 inhabitants.]

18. [All regions whose GDP per capita for the 2007-2013 period was less than [75%] of the EU-25 average, but whose GDP per capita is above 75% of the EU-27 average, will receive an allocation under the Structural Funds equal to at least [two thirds] of their 2007-2013 allocation.]

OR

[Other allocation methods for regions between [75%] and [90%] of EU average.]

19. The result of the application of this methodology is subject to capping as defined in paragraph 37.

Allocation method for more developed regions

20. The total initial theoretical financial envelope is obtained by multiplying an average aid intensity per head and per year of EUR [22.6] by the eligible population.

21. The share of each Member State concerned is the sum of the shares of its eligible regions, which are determined on the basis of the following criteria, weighted as indicated:

- total regional population (weighting [25%]),
- number of unemployed people in NUTS level 2 regions with an unemployment rate above the average of all more developed regions (weighting [20%]),
- employment to be added to reach the Europe 2020 target for regional employment rate (ages 20 to 64) of 75% (weighting [20%]),
- number of people aged 30 to 34 with tertiary educational attainment level to be added to reach the Europe 2020 target of 40% (weighting [12.5%]),
- number of early leavers from education and training (aged 18 to 24) to be subtracted to reach the Europe 2020 target of 10% (weighting [12.5%]),
- difference between the observed GDP of the region (in PPS) and the theoretical regional GDP if the region would have the same GDP/head as the most prosperous NUTS2 region (weighting [7.5%]),
- population of NUTS level 3 regions with a population density below [12.5 inh./km²] (weighting [2.5%]).

[To the amount obtained is added, if applicable, an amount resulting from the allocation of a premium of EUR [4] per person per year, applied to the population of cities with more than 250,000 inhabitants.]

22. All regions whose GDP per capita for the 2007-2013 period was less than 75% of the EU-25 average, but whose GDP per capita is above 75% of the EU-27 average, will receive an allocation under the Structural Funds equal to at least [two thirds] of their former indicative avarage annual allocation under the Convergence Objective, as calculated by the Commission within the multiannual financial framework 2007-2013.

Allocation method for the Cohesion Fund

23. The total theoretical financial envelope is obtained by multiplying the average per capita aid intensity of EUR [50] by the eligible population. Each eligible Member State's *a priori* allocation of this theoretical financial envelope corresponds to a percentage based on its population, surface area and national prosperity, and obtained by applying the following steps:

(i) calculation of the arithmetical average of that Member State's population and surface area shares of the total population and surface area of all the eligible Member States. If, however, a Member State's share of total population exceeds its share of total surface area by a factor of five or more, reflecting an extremely high population density, only the share of total population will be used for this step;

(ii) adjustment of the percentage figures so obtained by a coefficient representing one third of the percentage by which that Member State's GNI per capita (PPS) exceeds or falls below the average GNI per capita of all the eligible Member States (average expressed as 100%).

24. In order to reflect the significant needs of Member States, which acceded to the Union on or after 1 May 2004, in terms of transport and environment infrastructure, their share of the Cohesion Fund will be set at [one third] of the total final financial allocation after capping (structural funds plus Cohesion Fund) received on average over the period.

25. [The Member States eligible for funding from the Cohesion Fund in 2013, but whose nominal GNI per capita exceeds [90%] of the average GNI per capita of the EU-27 as calculated under paragraph 24 will receive support from the Cohesion Fund on a transitional and specific basis. This transitional support will be of EUR [50] per capita in 2014 and will degressively be phased out by 2020.]

26. The result of the application of this methodology is subject to capping as defined in paragraph 37.

Allocation method for "European territorial cooperation"

27. The allocation of resources by Member State, covering cross-border and transnational cooperation, is determined as the weighted sum of the share of the population of border regions and of the share of the total population of each Member State. The weight is determined by the respective shares of the cross-border and transnational strands. The shares of the cross-border and transnational cooperation components are [77.9] % and [22.1] %.

Allocation method for outermost and sparsely populated regions

28. Outermost regions and northern sparsely populated NUTS level 2 regions will benefit from an additional special allocation with an aid intensity of EUR [20] per inhabitant per year. It will be distributed per region and Member State in a manner proportional to the total population of these regions.

Conditionalities

Macro-economic conditionality

29. Establishing a closer link between cohesion policy and the economic governance of the Union will ensure that the effectiveness of expenditure under the Common Strategic Framework (CSF) Funds is underpinned by sound economic policies and that the CSF Funds can, if necessary, be redirected to addressing the economic problems a country is facing.

30. The Commission may therefore request a Member State to review and propose amendments to its Partnership Contract and the relevant programmes, where this is necessary:

    (a) to support the implementation of a Council recommendation, addressed to the Member State concerned and adopted in accordance with Articles 121(2) and/or 148(4) of the Treaty, or to support the implementation of measures addressed to the Member State concerned and adopted in accordance with Article 136(1) of the Treaty;

(b) to support the implementation of a Council recommendation addressed to the Member State concerned and adopted in accordance with Article 126(7) of the Treaty;

(c) to support the implementation of a Council recommendation addressed to the Member State concerned and adopted in accordance with Article 7(2) of Regulation (EU) No …/2011 [on the prevention and correction of macroeconomic imbalances], provided that these amendments are deemed necessary to help correct the macroeconomic imbalances; or

(d) to maximise the growth and competitiveness impact of the available CSF Funds pursuant to paragraph 4, if a Member State meets one of the following conditions:

  (i) Union financial assistance is made available to it under Council Regulation (EU) No 407/2010;
  (ii) medium-term financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002;
  (iii) financial assistance in the form of an ESM loan is made available to it in accordance with the Treaty establishing the European Stability Mechanism.

Where, a Member State fails to take effective action in response to the Commission's request, the Commission may adopt a decision suspending all or part of the payments to the programmes concerned.

The Commission shall suspend part or all of the payments and commitments for the programmes concerned where:

(a) the Council decides that the Member State does not comply with the specific measures set out by the Council in accordance with Article 136(1) of the Treaty;

(b) the Council decides in accordance with Article 126(8) or Article 126(11) of the Treaty that the Member State concerned has not taken effective action to correct its excessive deficit;

(c) the Council concludes in accordance with Article 8(3) of Regulation (EU) No […]/2011 [on the prevention and correction of macroeconomic imbalances] that, on two successive instances, the Member State has not submitted a sufficient corrective action plan or the Council adopts a decision declaring non-compliance in accordance with Article 10(4) of that Regulation;

(d) the Commission concludes that the Member State has not taken measures to implement the adjustment programme referred to in Council Regulation (EU) No 407/2010 or Council Regulation (EC) No 332/2002 and as a consequence decides not to authorise the disbursement of the financial assistance granted to this Member State; or

(e) the Board of Directors of the European stability mechanism concludes that the conditionality attached to an ESM financial assistance in the form of an ESM loan to the concerned Member State was not met and as a consequence decides not to disburse the stability support granted to it.

31. Decisions on suspensions should be proportionate and effective, taking into account the economic and social circumstances of the Member State concerned, and respects equality of treatment between Member States, in particular with regard to the impact of the suspension on the economy of the Member State concerned.

32. [Other possible supplementary provisions on the scope, extension and impact of macroeconomic conditions.]

33. The suspensions will be lifted and funds be made available again to the Member State concerned as soon as the Member State takes the necessary action.

Performance reserve

34. *'Ex post'* conditionality will strengthen the focus on performance and the attainment of the Europe 2020 objectives.

35. Performance reserve
[It will be based on the achievement of milestones related to targets for financial and outputs indicators linked to Europe 2020 objectives set for programmes priorities. [X%] of the budget of the relevant funds will be set aside and allocated, during a mid-term performance review, to the programme priorities of a given Member State which have met their milestones.]

OR

[Other alternative provisions concerning a performance reserve.]

36. Failure to achieve milestones may lead to the suspension of funds, and a serious underachievement in meeting targets for a programme may give rise to a cancellation of funds.

Capping

37. In order to contribute to achieve adequate concentration of cohesion funding on the least developed regions and Member States and to the reduction of disparities in average per capita aid intensities, the maximum level of transfer to each individual Member State will be set at [2.5]% of GDP. The capping will be applied on an annual basis, and will - if applicable - proportionally reduce all transfers (except for the more developed regions and "European territorial cooperation") to the Member State concerned in order to obtain the maximum level of transfer.

[Possible other provisions on capping.]

Co-financing rates

38. The co-financing rate at the level of each priority axis of operational programmes under the "Investment for growth and jobs" goal will be no higher than:

    (a) [85] % for the Cohesion Fund;

    (b) [85] % for the less developed regions of Member States whose average GDP per capita for the period 2007 to 2009 was below [85 %] of the EU-27 average during the same period and for the outermost regions;

    (c) [80]% for the less developed regions of Member States other than those referred to in point (b) eligible for the transitional regime of the Cohesion Fund on 1 January 2014;

    (d) [75]% for the less developed regions of Member States other than those referred to in points (b) and (c), and for all regions whose GDP per capita for the 2007-2013 period was less than [75%] of the average of the EU-25 for the reference period but whose GDP per capita is above [75%] of the GDP average of the EU-27;

    (e) [60] % for the transition regions other than those referred to in point (d);

    (f) [50] % for the more developed regions other than those referred to in point (d).

    The co-financing rate at the level of each priority axis of operational programmes under the "European territorial cooperation" goal will be no higher than [75]%.

    The co-financing rate of the additional allocation for outermost regions identified in Article 349 of the Treaty and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the Treaty of Accession of Austria, Finland and Sweden will be no higher than [50]%.

39. Increase in payments for Member State with temporary budgetary difficulties.

(a) [A higher co-financing rate (by [10] percentage points) can be applied when a Member State is receiving financial assistance in accordance with Articles 136 and 143 of the TFEU, thus reducing the effort required from national budgets at a time of fiscal consolidation, while keeping the same overall level of EU funding.]

OR

(b) [In order to fully respect the principle of co-financing, the levels set out in the paragraphe above may not be increased when a Member State is receiving financial assistance in accordance with Articles 136 and 143 of the TFEU.]

Pre-financing rates

40. [The pre-financing payment at the start of programmes ensures that Member States have the means to provide support to beneficiaries in the implementation of the programme from the start. The following levels of pre-financing should therefore apply:

- The <u>initial pre-financing</u> amount will be paid in instalments as follows:
  (a) in 2014: [2] % of the amount of support from the Funds for the entire programming period to the operational programme;
  (b) in 2015: [1] % of the amount of support from the Funds for the entire programming period to the operational programme;
  (c) in 2016: [1] % of the amount of support from the Funds for the entire programming period to the operational programme.

  If an operational programme is adopted in 2015 or later, the earlier instalments will be paid in the year of adoption.

- [An <u>annual pre-financing</u> amount will be paid before 1 July in the years 2016 to 2022. In 2016, it will be [2] % of the amount of the support from the Funds for the whole programming period to the operational programme. In the years 2017 to 2022, it will be [2,5]% of the amount of the support from the Funds for the whole programming period to the operational programme].]

Other regulatory provisions

41. All programmes will be submitted to a decommitment procedure established on the basis that amounts linked to a commitment which are not covered by pre-financing or a request for payment within a period of [N+2] will be decommitted.

Connecting Europe Facility

42. Smart, sustainable and fully interconnected transport, energy and digital networks are a condition for the completion of the European single market. Moreover, investments in key infrastructures with EU added value can boost Europe's competitiveness in a difficult economic context, marked by slow growth and tight public budgets. Finally, such investments in infrastructure are also instrumental in allowing the EU to meet its sustainable growth objectives outlined in the Europe 2020 Strategy and the EU's "20-20-20" objectives in the area of energy and climate policy.

43. The financial envelope for the implementation of the Connecting Europe Facility for the period 2014 to 2020 will be EUR xx. That amount will be distributed among the sectors as follows:

    (a) transport: EUR XX, [out of which [EUR xx] will be transferred from the Cohesion Fund to be spent in line with the CEF Regulation in Member States eligible for funding from the Cohesion Fund];

    (b) energy: EUR XX;

    (c) telecommunications: EUR XX.

44. [The transfer from the Cohesion Fund for transport infrastructure under the Connecting Europe Facility will be implemented in respect of projects listed in the annex to the CEF Regulation],

[giving greatest possible priority to projects respecting the national allocations under the Cohesion Fund.]

OR

[Alternative provisons concerning the transfer of funds from the cohesion fund to CEF.]