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THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL establishing a European Neighbourhood Instrument

REGULATION (EU) No .../2014
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

establishing a European Neighbourhood Instrument

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 209(1) and 212(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 11, 15.1.2013, p. 77.

² OJ C 391, 18.12.2012, p. 110.

³ Position of the European Parliament of 11 December 2013 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) This Regulation establishes the European Neighbourhood Instrument (ENI) as one of the instruments providing direct support for the European Union's external policies. It replaces Regulation (EC) No 1638/2006 of the European Parliament and of the Council¹, which expired on 31 December 2013.
- (2) Article 8 of the Treaty on European Union (TEU) provides that the Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
- (3) Under the European Neighbourhood Policy (ENP), the Union offers European Neighbourhood countries a privileged relationship, building upon a mutual commitment to, and promotion of, the values of democracy and human rights, the rule of law, good governance and the principles of a market economy and sustainable and inclusive development. It further provides, where appropriate, a framework for enhanced mobility and people-to-people contacts, particularly through visa facilitation and readmission agreements, and, on a case-by-case basis, through visa liberalisation.

¹ Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (OJ L 310, 9.11.2006, p. 1).

- (4) Since it was launched, the ENP has strengthened relations with partner countries and brought tangible benefits to both the Union and its partners, including the launch of regional initiatives and support to democratisation in the European Neighbourhood. A number of major developments in the European Neighbourhood prompted a comprehensive strategic review of the ENP in 2011. The review provides, inter alia, for greater support to partners committed to building democratic societies and undertaking reforms in line with the incentive-based approach ('more for more') and the principle of 'mutual accountability', partnership with societies and a more differentiated and tailor-made approach towards the individual partner countries. This Regulation should establish clear links between the ENP framework and the support to be provided under this Regulation.
- (5) This Regulation should support the implementation of political initiatives that have shaped the ENP: the Eastern Partnership between the Union and its eastern neighbours, the Partnership for Democracy and Shared Prosperity and the Union for the Mediterranean in the southern neighbourhood. Those initiatives are all strategically important and offer equally meaningful political frameworks for deepening relations with and among partner countries, based on the principles of mutual accountability, shared ownership and responsibility. This Regulation should also support the implementation of regional cooperation throughout the European Neighbourhood, inter alia in the framework of the Northern Dimension policy or the Black Sea Synergy, as well as, primarily in the case of cross-border cooperation, the external aspects of relevant macro-regional strategies.

- (6) The objectives of this Regulation should be pursued with the appropriate involvement of external action partners, including civil society organisations and local authorities, in preparing, implementing and monitoring Union support, given the importance of their roles. This Regulation should also support the strengthening of the capacity of civil society organisations to guarantee effective domestic accountability and local ownership, and to play a full role in the democratisation process.
- (7) This Regulation acknowledges the specific status of the Russian Federation as both a Union neighbour and a strategic partner in the region.
- (8) Support under both this Regulation and the European Regional Development Fund (ERDF) should be provided for the cross-border cooperation programmes between, on the one hand, Member States and, on the other hand, partner countries and/or the Russian Federation ('other cross-border cooperation participating countries') along the external borders of the Union, in order to promote integrated and sustainable regional development and cooperation between neighbouring border areas and harmonious territorial integration across the Union and with neighbouring countries. To secure efficient implementation of cross-border cooperation, it is important to harmonise procedures with those within the context of European territorial cooperation, where applicable.

- (9) Furthermore, it is important to foster and facilitate cooperation between the Union and its partners and other participating countries for their common benefit, in particular through the best and most effective coordination of resources provided and the pooling of contributions from internal and external instruments of the Union budget, in particular for the benefit of cross-border cooperation and regional cooperation projects, infrastructure projects of Union interest involving neighbouring countries, and other areas of cooperation.
- (10) Territorial units along the borders that belong to countries of the European Economic Area (EEA) and the relevant territorial units in the beneficiaries listed in Annex I to Regulation (EU) No .../2014 of the European Parliament and of the Council^{1*} should also be able to participate in cross-border cooperation. Participation of the EEA countries in the cross-border cooperation programmes should continue to be based on their own resources.
- (11) It is expected that the Member States, partner countries and other participating countries taking part in cross -border cooperation and in regional cooperation will provide co-financing. This will strengthen country ownership, increase the financial resources at the disposal of the programmes and facilitate the participation of local stakeholders.
- (12) For the purpose of harmonising the terminology used in this Regulation with that of the European territorial cooperation, the implementation documents for cross-border cooperation programmes should be called joint operational programmes.

¹ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L ...).

* OJ: please insert the number in the text as well as the date and the OJ publication reference in the footnote of Regulation in document PE-CONS 123/13 (2011/0404 (COD)).

- (13) Support to be provided to neighbouring countries within the framework established by the ENP should be coherent with the objectives and principles of the Union's external policies and, in particular, its development policy and the common foreign and security policy. Coherence with the external dimensions of the Union's internal policies and instruments should also be ensured.
- (14) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence and complementarity between the Union's instruments for external action, as well as the creation of synergies between the ENI, other Union instruments for financing external action and other policies of the Union. This should further entail mutual reinforcement of the programmes devised under the instruments for financing external action.
- (15) The Joint EU–Africa Strategy is of relevance for relations with the Mediterranean neighbours from North Africa.
- (16) The Union and its Member States should improve the coherence, effectiveness and complementarity of their respective policies on cooperation with neighbouring countries. To ensure that the Union's cooperation and that of the Member States complement and reinforce each other, it is appropriate to provide for joint programming, which should be implemented whenever possible and relevant. Proper cooperation and coordination with other non-Union donors should also be ensured.

- (17) Union support under this Regulation should in principle be aligned to corresponding national or local strategies and measures of partner countries and, where relevant, also to those of the Russian Federation.
- (18) The Commission should seek the most efficient use of available resources by using financial instruments with leverage effect. Such effect could be increased by enabling funds invested and generated by financial instruments to be used and re-used.
- (19) Fighting climate change is one of the great challenges which the Union faces and urgent international action is needed. In accordance with the intent stated in the Commission Communication of 29 June 2011 entitled 'A budget for Europe 2020' of increasing the climate-related proportion of the Union budget to at least 20 %, this Regulation should contribute to the attainment of that goal.
- (20) A stable framework of cooperation with neighbouring countries in the area of energy and resources, consistent with the Union's internal market rules, contributes to enhancing the Union's security in that area.
- (21) Gender equality, the rights of persons belonging to minorities and the fight against discrimination and inequalities are cross-cutting objectives in all actions undertaken under this Regulation.

- (22) In relations with its partners worldwide, the Union is committed to promoting decent work and social justice, and ratifying and effectively implementing internationally recognised labour standards, including the eradication of child labour, and multilateral environmental agreements.
- (23) This Regulation lays down a financial envelope for its period of application which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management¹, for the European Parliament and the Council during the annual budgetary procedure.
- (24) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of penalties. Those measures should be carried out in accordance with the applicable agreements concluded with international organisations and third countries.

¹ OJ C 373, 20.12.2013, p. 1.

- (25) In order to adapt Union support under this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of priorities for Union support under this Regulation and financial allocations per type of programme. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (26) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission.
- (27) The implementing powers relating to multi-annual single support frameworks, other programming documents and implementing rules laying down specific provisions for the implementation of cross-border cooperation should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (28) The examination procedure should in principle be used for the adoption of such implementing acts, given the nature of those implementing acts, in particular their policy orientation or their financial implications, except in the case of measures of a small financial scale.
- (29) Common rules and procedures for the implementation of the Union's instruments for financing external action are laid down in Regulation (EU) No .../2014 of the European Parliament and of the Council^{1*}.
- (30) The organisation and functioning of the European External Action Service (EEAS) are established in Council Decision 2010/427/EU².

¹ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L ...).

* OJ: please insert the number in the text as well as the date and the OJ publication reference in the footnote of the Regulation in document PE-CONS 130/13 ((2011/0415 (COD))).

² Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

- (31) In European Neighbourhood countries, where alignment to Union rules and standards is one of the key policy objectives, the Union is best placed to deliver its support under this Regulation. Certain specific support can only be provided at Union level. Member States' transition experience can also contribute to the success of reforms in European Neighbourhood countries and to promoting universal values in the European Neighbourhood.
- (32) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (33) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013¹. Therefore, this Regulation should apply from 1 January 2014 until 31 December 2020,

HAVE ADOPTED THIS REGULATION:

¹ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

TITLE I

OBJECTIVES AND PRINCIPLES

Article 1

General objective and scope

1. This Regulation establishes a European Neighbourhood Instrument (ENI) with a view to advancing further towards an area of shared prosperity and good neighbourliness involving the Union and the countries and territories listed in Annex I ('the partner countries') by developing a special relationship founded on cooperation, peace and security, mutual accountability and a shared commitment to the universal values of democracy, the rule of law and respect for human rights in accordance with the TEU.
2. Union support under this Regulation shall be used for the benefit of partner countries and the areas involved in cross-border cooperation. It can also be used for the common benefit of the Union and partner countries.
3. Union support under this Regulation may also be used for the purpose of enabling the Russian Federation to participate in cross-border cooperation, in regional cooperation with Union participation and in relevant multi-country programmes, including in cooperation on education, in particular student exchanges.

4. The Union promotes, develops and consolidates the values of liberty, democracy, the universality and indivisibility of, and respect for, human rights and fundamental freedoms, and the principles of equality and the rule of law, on which it is founded, through dialogue and cooperation with third countries and in compliance with principles of international law. Accordingly, funding under this Regulation shall comply with those values and principles, as well as with the Union's commitments under international law, taking into account relevant Union policies and positions.

Article 2

Specific objectives of Union support

1. Union support under this Regulation shall focus on promoting enhanced political cooperation, deep and sustainable democracy, progressive economic integration and a strengthened partnership with societies between the Union and the partner countries and, in particular, the implementation of partnership and cooperation agreements, association agreements or other existing and future agreements, and jointly agreed action plans or equivalent documents.

2. Union support under this Regulation shall target in particular:

- (a) promoting human rights and fundamental freedoms, the rule of law, principles of equality and the fight against discrimination in all its forms, establishing deep and sustainable democracy, promoting good governance, fighting corruption, strengthening institutional capacity at all levels and developing a thriving civil society including social partners;
- (b) achieving progressive integration into the Union internal market and enhanced sectoral and cross-sectoral cooperation, including through legislative approximation and regulatory convergence towards Union and other relevant international standards, and improved market access including through deep and comprehensive free trade areas, related institution-building and investment, particularly in interconnections;
- (c) creating conditions for the better organisation of legal migration and the fostering of well-managed mobility of people, for the implementation of existing or future agreements concluded in line with the Global Approach to Migration and Mobility, and for the promotion of people-to-people contacts, in particular in relation to cultural, educational, professional and sporting activities;

- (d) supporting smart, sustainable and inclusive development in all aspects; reducing poverty, including through private-sector development, and reducing social exclusion; promoting capacity-building in science, education and in particular higher education, technology, research and innovation; promoting internal economic, social and territorial cohesion; fostering rural development; promoting public health; and supporting environmental protection, climate action and disaster resilience;
- (e) promoting confidence-building, good neighbourly relations and other measures contributing to security in all its forms and the prevention and settlement of conflicts, including protracted conflicts;
- (f) enhancing sub-regional, regional and European Neighbourhood-wide collaboration as well as cross-border cooperation.

3. The achievement of the specific objectives set out in paragraphs 1 and 2 shall be measured using, in particular, the relevant Union periodic reports on the implementation of the ENP; for points (a), (d) and (e) of paragraph 2, the relevant indicators established by international organisations and other relevant bodies; for points (b), (c) and (d) of paragraph 2, the extent of the uptake of the Union regulatory framework by the partner countries as appropriate; and for points (c) and (f) of paragraph 2, the number of relevant agreements and cooperation actions.

The indicators used to measure the achievement of the specific objectives shall be predefined, clear, transparent and, where appropriate, country-specific and measurable, and shall include, inter alia, adequately monitored democratic elections, respect for human rights and fundamental freedoms, an independent judiciary, cooperation on issues of justice, freedom and security, the level of corruption, trade flows, gender equality and indicators enabling internal economic disparities, including employment levels, to be measured.

4. Union support under this Regulation may also be used in other relevant areas when this is consistent with the overall objectives of the ENP.

Article 3

Policy framework

1. The partnership and cooperation agreements, the association agreements and other existing or future agreements that establish a relationship with partner countries, corresponding Commission communications, European Council conclusions, and Council conclusions, as well as relevant summit declarations or conclusions of ministerial meetings with the partner countries of the ENP, including in the context of the Eastern Partnership and the Union for the Mediterranean, and also relevant European Parliament resolutions, shall, while respecting the principle of ownership, constitute the overall policy framework of this Regulation for programming and implementing Union support under this Regulation.

2. The key points of reference for setting the priorities for Union support under this Regulation and for the assessment of progress as outlined in Article 2(3) shall be: action plans or other equivalent jointly agreed documents such as the association agendas between the partner countries and the Union in bilateral and multilateral formats, including, as relevant, within the Eastern Partnership and the southern dimension of the ENP.
3. Where no agreements, as set out in paragraph 1, between the Union and partner countries exist, Union support under this Regulation may be provided when it proves useful in order to pursue Union policy objectives, and shall be programmed on the basis of such objectives, taking into account the needs of the country concerned.

Article 4

Differentiation, partnership and co-financing

1. Union support under this Regulation provided to each partner country in accordance with point (a) of Article 6(1) shall be incentive-based and differentiated in form and amounts, taking into account all the elements listed below, reflecting the partner country's:
 - (a) needs, using indicators such as population and level of development;
 - (b) commitment to and progress in implementing mutually agreed political, economic and social reform objectives;

- (c) commitment to and progress in building deep and sustainable democracy;
- (d) partnership with the Union, including the level of ambition for that partnership;
- (e) absorption capacity and the potential impact of Union support under this Regulation.

Such support shall be reflected in the multi-annual programming documents referred to in Article 7.

2. Following the adoption of the programming documents specified in Article 7, and without prejudice to the other elements outlined in paragraph 1 of this Article, the share of available resources offered to partner countries shall be adapted primarily according to their progress in building and consolidating deep and sustainable democracy and in implementing agreed political, economic and social reform objectives, in line with the incentive-based approach.

For multi-country umbrella programmes, that share shall be determined according to the progress made by partner countries in building deep and sustainable democracy, also taking into account their progress in implementing agreed reform objectives contributing to the attainment of that goal.

The progress of partner countries shall be regularly assessed, in particular by means of ENP progress reports which include trends as compared to previous years.

Support may be reconsidered in the event of serious or persistent regression.

3. The incentive-based approach shall not apply to support to civil society, people-to-people contacts, including cooperation between local authorities, support for the improvement of human rights, or crisis-related support measures. In the event of serious or persistent regression, such support may be increased.
4. The incentive-based approach under this Regulation shall be the subject of a regular exchange of views in the European Parliament and in the Council.
5. Union support under this Regulation shall, in principle, be established in partnership with the beneficiaries. That partnership shall involve, as appropriate, the following stakeholders in the preparation, implementation and monitoring Union support:
 - (a) national and local authorities; and
 - (b) civil society organisations,including through consultation and timely access to relevant information allowing them to play a meaningful role in that process.

6. Union support under this Regulation shall, in principle, be co-financed by the partner countries and other participating countries through public funds, contributions from the beneficiaries or other sources. Co-financing requirements may be waived in duly justified cases and where necessary in order to support the development of civil society and non-state actors, especially small-scale civil society organisations, without prejudice to compliance with the other conditions set out in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council¹.

Article 5

Coherence and donor coordination

1. In the implementation of this Regulation, coherence shall be ensured with all areas of the Union's external action as well as other relevant Union policies. To that end, measures financed under this Regulation, including those managed by the European Investment Bank (EIB), shall be based on the cooperation policy documents referred to in Article 3(1) and (2) as well as on the Union's specific interests, policy priorities and strategies. Such measures shall respect the commitments under multilateral agreements and international conventions to which the Union and partner countries are parties.
2. The Union, the Member States and the EIB shall ensure coherence between support provided under this Regulation and other support provided by the Union, the Member States and European financial institutions.

¹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

3. The Union and the Member States shall coordinate their respective support programmes with the aim of increasing effectiveness and efficiency in the delivery of support and policy dialogue and preventing overlapping of funding, in line with the established principles for strengthening operational coordination in the field of external support and for harmonising policies and procedures. Coordination shall involve regular consultations and frequent exchanges of relevant information during the different phases of the support cycle, in particular at field level. Joint programming shall be implemented whenever possible and relevant. When this cannot be achieved, other arrangements, such as delegated cooperation and transfer arrangements, shall be considered with a view to ensuring the highest degree of coordination.

The Commission shall report on joint programming with Member States within the report referred to in Article 17 of Regulation (EU) No .../2014*, and shall include recommendations in cases where joint programming was not fully achieved.

4. The Union, in liaison with the Member States, shall take the necessary steps, including consultations at an early stage of the programming process, to ensure complementarity, proper coordination and cooperation with multilateral and regional organisations and entities, including European financial institutions, international financial institutions, United Nations agencies, funds and programmes, private and political foundations and non-Union donors.
5. The documents referred to in Article 7(2) and (3) shall also, to the extent possible, refer to the activities of other Union donors.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

TITLE II

INDICATIVE PROGRAMMING AND ALLOCATION OF FUNDS

Article 6

Types of programmes

1. Union support under this Regulation shall be programmed through:
 - (a) bilateral programmes covering Union support to one partner country;
 - (b) multi-country programmes which address challenges common to all or a number of partner countries, based on priorities of the Eastern Partnership and the southern dimension of the ENP and taking into account the work carried out in the context of the Union for the Mediterranean, and regional and sub-regional cooperation, primarily between two or more partner countries, including also within the framework of the Northern Dimension and Black Sea Synergy. This may involve the Russian Federation in accordance with Article 1(3);
 - (c) cross-border cooperation programmes addressing cooperation between one or more Member States, on the one hand, and one or more partner countries and/or the Russian Federation ("other cross-border cooperation participating countries"), on the other hand, taking place along their shared part of the external border of the Union.

2. The priorities for Union support under this Regulation are set out in Annex II.
3. Union support under this Regulation shall be implemented in accordance with Regulation (EU) No .../2014* and, for the programmes referred to in point (c) of Article 6(1) of this Regulation, also in accordance with the implementing rules laying down specific provisions for the implementation of cross-border cooperation as referred to in Article 12 of this Regulation.

Article 7

Programming and indicative allocation of funds for country and multi-country indicative programmes

1. Indicative financial allocations for country programmes shall be determined on the basis of the criteria set out in Article 4(1).
2. For countries for which documents referred to in Article 3(2) of this Regulation exist, a comprehensive multi-annual single support framework shall be adopted in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No .../2014*. That framework shall:
 - (a) review the progress made in relation to the policy framework and the achievement of previously agreed objectives and take stock of the state of play as regards relations between the Union and the partner country, including the level of ambition for the partner country's partnership with the Union;

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

- (b) set out the objectives and priorities for Union support, mainly selected from those included in the documents referred to in Article 3(2) of this Regulation and in the partner countries' strategies or plans, where those strategies or plans are consistent with the overall policy framework, and for which the Union's regular assessment has shown the need for support;
- (c) indicate expected results; and
- (d) set out the indicative level of funding, broken down by priority.

Indicative financial allocations for each single support framework shall be given in the form of a range of not more than 20 % of those allocations.

The duration of a single support framework shall in principle correspond to the duration of the relevant document referred to in Article 3(2) of this Regulation.

3. For countries for which documents referred to in Article 3(2) of this Regulation do not exist, a comprehensive programming document including a strategy and multi-annual indicative programme shall be adopted in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No .../2014*. The document shall:

- (a) define a Union response strategy on the basis of an analysis of the situation of the country concerned, of its relations with the Union, and of the partner countries' strategies or plans where those strategies or plans are consistent with the overall policy framework;

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- (b) set out the objectives and priorities for Union support;
- (c) indicate expected results; and
- (d) set out the indicative level of funding, broken down by priority.

Accompanying indicative financial allocations shall be given in the form of a range of not more than 20 % of those allocations. The programming document shall have an appropriate multi-annual duration.

4. For multi-country programmes, a comprehensive programming document including a strategy and a multi-annual indicative programme shall be adopted in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No .../2014*.

It shall:

- (a) set out the objectives and priorities for Union support towards the region or the sub-region, reflecting where applicable the priorities decided upon within the framework of the Eastern Partnership or the Union for the Mediterranean;
- (b) indicate expected results; and
- (c) set out the indicative level of funding, broken down by priority.

Indicative financial allocations for multi-country programmes shall be determined on the basis of transparent and objective criteria.

The programming document shall have an appropriate multi-annual duration.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

5. The single support framework documents shall be reviewed when necessary, including in the light of the relevant Union periodic reports and taking account of the work of the joint bodies established under the agreements with partner countries, and may be revised in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No .../2014*. The programming documents referred to in paragraphs 3 and 4 of this Article shall be reviewed at their mid-term or whenever necessary, and may be revised in accordance with the same procedure.
6. To facilitate the implementation of the incentive-based approach referred to in Article 4(2), an amount in the range of 10 % of the financial envelope set out in Article 17(1) shall be allocated to multi-country umbrella programmes that will supplement the country financial allocations referred to in Article 7(2) and (3). The relevant Commission decisions establishing those umbrella programmes shall specify the countries that may receive allocations, with the actual allocations to be decided on the basis of progress towards deep and sustainable democracy and implementation of agreed reform objectives contributing to the attainment of that goal.
7. When it is necessary to implement more effectively measures for the common benefit of the Union and partner countries, in areas such as transnational cooperation and interconnections, funding under this Regulation can be pooled together with funding under other relevant Union regulations. In that event, the Commission shall decide which single set of rules is to apply to implementation.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

8. Member States shall be involved in the programming process, in accordance with Article 16(3) of Regulation (EU) No .../2014*. Those Member States and other donors that have committed to jointly programme their support with the Union shall be particularly closely involved. The programming documents may also cover their contribution as appropriate.
9. Where Member States and other donors have committed to jointly programme their support, a joint multi-annual programming document may replace the single support framework and the programming documents referred to in paragraphs 3 and 4, on condition that it meets the requirements set out in those paragraphs.
10. In the event of crises or threats to democracy, the rule of law or human rights and fundamental freedoms, or of natural or man-made disasters, an ad hoc review of the programming documents may be conducted. Such emergency review shall ensure that coherence between Union policies, Union support provided under this Regulation and support provided under other Union instruments for financing external action is maintained. An emergency review may lead to the adoption of revised programming documents. In that event, the Commission shall send the revised programming documents to the European Parliament and to the Council for information within one month of their adoption.
11. Any programming or reviews of programmes taking place after the publication of the mid-term review report referred to in Article 17 of Regulation (EU) No .../2014* shall take into account the results, findings and conclusions of that report.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

TITLE III

CROSS-BORDER COOPERATION

Article 8

Geographical eligibility

1. The cross-border cooperation programmes referred to in point (c) of Article 6(1) can be established:
 - (a) for land borders covering the territorial units corresponding to Nomenclature of territorial units for statistics (NUTS) level 3 or equivalent along the land borders between Member States and the other cross-border cooperation participating countries, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation action, and in accordance with Article 9(4);
 - (b) for maritime borders covering the territorial units corresponding to NUTS level 3 or equivalent along maritime borders between Member States and the other cross-border cooperation participating countries, separated by a maximum of 150 km, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation action;
 - (c) around a sea basin covering the coastal territorial units corresponding to NUTS level 2 or equivalent facing a sea basin common to Member States and the other cross-border cooperation participating countries.

2. In order to ensure the continuation of existing cooperation schemes and in other justified cases, and with a view to contributing to the programme's objectives, territorial units adjoining those referred to in paragraph 1 may be allowed to participate in cross-border cooperation. The conditions under which adjoining territorial units may participate in cooperation shall be laid down in the joint operational programmes.
3. In duly justified cases, major social, economic or cultural centres in the Member States or in other cross-border cooperation participating countries that do not adjoin eligible territorial units may be included on condition that such participation contributes to the objectives laid down in the programming document. The conditions under which such centres may participate in cooperation shall be laid down in the joint operational programmes.
4. When programmes are established pursuant to point (b) of paragraph 1, the Commission may, in agreement with the participants, propose that the geographical eligibility be extended to the whole NUTS level 2 territorial unit in the area of which the NUTS level 3 territorial unit is located.
5. Cross-border cooperation shall aim to be coherent with the objectives of existing and future macro-regional strategies.

Article 9

Programming and allocation of funds for cross-border cooperation

1. A programming document shall be prepared for the purpose of defining the following:
 - (a) the strategic objectives to be pursued by cross-border cooperation, and the priorities and expected results of that cooperation;
 - (b) the list of joint operational programmes to be established;
 - (c) the indicative breakdown of resources between land and maritime border programmes referred to in points (a) and (b) of Article 8(1) and sea basin programmes referred to in point (c) of Article 8(1);
 - (d) the indicative multi-annual allocations to each joint operational programme;
 - (e) the territorial units eligible to participate in each joint operational programme, and the territorial units and centres indicated in Article 8(2), (3) and (4);
 - (f) the indicative allocation to support, as appropriate, horizontal capacity-building actions, networking and exchange of experiences among programmes;
 - (g) the contributions to the transnational programmes established under Regulation (EU) No 1299/2013 of the European Parliament and the Council¹ in which partner countries and/or the Russian Federation participate.

¹ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259.).

The programming document shall cover a period of seven years and shall be adopted by the Commission in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No ... /2014*. It shall be reviewed at mid-term or whenever necessary and may be revised in accordance with that procedure.

2. Joint operational programmes shall be co-financed by the ERDF. The overall amount of the contribution from the ERDF shall be determined pursuant to Article 4(4) of Regulation (EU) No 1299/2013. This Regulation shall apply to the use of that contribution.
3. The Instrument for Pre-Accession (IPA II), as established by Regulation (EU) No .../2014**, may be used to co-finance joint operational programmes in which beneficiaries listed in Annex I to that Regulation participate. This Regulation shall apply to the use of that co-financing.
4. The indicative allocations of funds to joint operational programmes shall be based on objective criteria, in particular the population of the eligible territorial units as defined in points (a), (b) and (c) of Article 8(1). In the determination of the indicative allocations, adjustments may be made to reflect the need for a balance between the contributions from the ERDF and the contributions provided under this Regulation, as well as other factors affecting the intensity of cooperation, such as the specific characteristics of border areas and their capacity to manage and absorb Union support.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

** OJ: please insert the number in the text of the Regulation in document PE-CONS 123/13 (2011/0404 (COD)).

Article 10

Joint operational programmes

1. Cross-border cooperation shall be implemented through multi-annual joint operational programmes covering cooperation for a border or a group of borders and comprising multi-annual measures that pursue a consistent set of priorities and that may be implemented with Union support. Joint operational programmes shall be based on the programming document referred to in Article 9(1). They shall include a summary description of the management and control systems covering the elements referred to in Article 11(2) and in Article 12 (2).
2. Joint operational programmes for land and maritime borders shall be established for each border at the appropriate territorial level and shall include eligible territorial units belonging to one or more Member States and to one or more other cross-border cooperation participating countries.
3. Joint operational programmes around sea basins shall be multilateral, established at the appropriate territorial level, and shall include eligible territorial units facing a common sea basin belonging to several participating countries, including at least one Member State and one other cross-border cooperation participating country. They may include bilateral activities supporting cooperation between one Member State and one other cross-border cooperation participating country.

4. Within one year of approval of the programming document referred to in Article 9(1), and after the adoption of the implementing rules laying down specific provisions for the implementation of cross-border cooperation, the participating countries shall jointly submit proposals for joint operational programmes to the Commission. The Commission shall, within a deadline set in the implementing rules, adopt each joint operational programme after assessing its consistency with this Regulation, with the programming document and with the implementing rules. The Commission shall present joint operational programmes to the European Parliament and the Member States for information within one month of the adoption of those programmes.
5. Areas in countries other than Member States or other cross-border cooperation participating countries which adjoin eligible areas as defined in points (a) and (b) of Article 8(1) or which face a common sea basin where a joint operational programme is being established may be covered by a joint operational programme and may benefit from Union support under this Regulation in accordance with the conditions set out in the programming document referred to in Article 9(1).
6. The Commission and the participating countries shall take the appropriate measures to ensure that cross-border cooperation programmes, in particular for sea basins, established under this Regulation and transnational co-operation programmes established under Regulation (EU) No 1299/2013 that have a partially overlapping geographical coverage will be fully complementary and mutually re-enforcing.

7. Joint operational programmes may be revised at the initiative of the participating countries or the Commission for reasons such as:
- (a) changes in cooperation priorities or socio-economic developments,
 - (b) results of implementing the measures concerned and those produced by the monitoring and evaluation process;
 - (c) the need to adjust the amounts of available funds and to reallocate resources.
8. By the end of the calendar year following the year of adoption of joint operational programmes, the Commission shall conclude a financing agreement with the other cross-border cooperation participating countries. That financing agreement shall include the legal provisions necessary in order to implement a joint operational programme and may be co-signed by the other participating countries and by the managing authority referred to in point (c) of Article 12(2) or by the country hosting the managing authority.

Where necessary, an agreement, for example in the form of a memorandum of understanding, shall be concluded between the participating countries and the managing authority to set out the specific financial responsibilities and programme implementation modalities of the countries concerned, including their management and administrative tasks and responsibilities.

9. A joint operational programme involving more than one other cross-border cooperation participating country is established if at least one other cross-border cooperation participating country signs the financing agreement. Other cross-border cooperation participating countries covered by an established programme can join the programme at any time by signing the financing agreement.
10. If a participating country undertakes to co-finance a joint operational programme, that programme shall clarify the arrangements and necessary safeguards for auditing, providing, using and monitoring the co-financing. The related financing agreement shall be signed by all participating countries and the joint operational programme's managing authority or by the country hosting the managing authority.
11. Joint operational programmes may also provide for a financial contribution from and to financial instruments with which grants could be combined, subject to the rules of those instruments, provided that this contributes to achieving those programmes' priorities.
12. Following the principle of partnership, participating countries and their local authorities, where applicable, shall jointly select actions for Union support that are consistent with the priorities and measures of a joint operational programme.

13. In specific and duly justified cases, where:

- (a) a joint operational programme cannot be submitted owing to problems arising in relations between participating countries or between the Union and another cross-border cooperation participating country;
- (b) a joint operational programme cannot be implemented owing to problems arising in relations between participating countries;
- (c) the participating countries have not submitted to the Commission a joint operational programme by 30 June 2017; or
- (d) none of the other cross-border cooperation participating countries in the programme has signed the relevant financing agreement by the end of the year following the adoption of the programme,

the Commission shall take the necessary steps, following consultations with the Member State(s) concerned, to allow the Member State(s) concerned to use the contribution from the ERDF to the joint operational programme pursuant to Article 4(7) and (8) of Regulation (EU) No 1299/2013.

14. Budget commitments for cross-border cooperation actions or programmes extending over more than one financial year may be broken down over several years into annual instalments.

Article 11

Management of joint operational programmes

1. Joint operational programmes shall usually be implemented in shared management with Member States. However, participating countries may propose implementation in indirect management, by an entity listed in Regulation (EU, Euratom) No 966/2012 and in accordance with the implementing rules referred to in Article 12(2) of this Regulation.
2. The Commission shall satisfy itself on the basis of available information that the Member State in the case of shared management, or the other cross-border cooperation participating country or the international organisation in the case of indirect management, has set up, and operates, management and control systems that comply with Regulation (EU, Euratom) No 966/2012, with this Regulation and with its implementing rules referred to in Article 12(2) of this Regulation.

Member States, other cross-border cooperation participating countries and international organisations concerned shall ensure the effective functioning of their management and control system, the legality and regularity of the underlying transactions and compliance with the principle of sound financial management. They shall be responsible for the management and control of the programmes.

The Commission may require the Member State or the other cross-border cooperation participating country or the international organisation concerned to examine a complaint submitted to the Commission concerning the selection or implementation of operations supported under this Title or the functioning of the management and control system.

3. In order to allow joint operational programmes to prepare adequately for implementation, expenditure incurred after the submission of a joint operational programmes to the Commission shall be eligible from 1 January 2014.
4. Where eligibility is restricted in accordance with Article 8(7) of Regulation (EU) No .../2014*, the entity referred to in paragraph 1 of this Article, which may launch calls for proposals and tenders, shall be entitled to accept as eligible tenderers, applicants and candidates from non-eligible countries, or goods from a non-eligible origin, in accordance with Article 8(2) and Article 9(3) of Regulation (EU) No .../2014*.

Article 12

Implementing rules for cross-border cooperation

1. Implementing rules laying down specific provisions for the implementation of this Title shall be adopted in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No .../2014*.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

2. Matters covered by the implementing rules shall include detailed provisions on, inter alia:
- (a) the rate and methods of co-financing;
 - (b) the content, preparation, modification and closure of joint operational programmes;
 - (c) the role and function of the programme structures, e.g. the joint monitoring committee, the managing authority and its joint technical secretariat, including their standing, effective identification, accountability and responsibility, a description of the management and control systems, and conditions governing the technical and financial management of Union support, including eligibility of expenditure;
 - (d) recovery procedures in all participating countries;
 - (e) monitoring and evaluation;
 - (f) visibility and information activities;
 - (g) shared and indirect management referred to in Article 6(2) of Regulation (EU) No .../2014*.

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

TITLE IV

FINAL PROVISIONS

Article 13

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 14 to amend Annex II. In particular, following the publication of the mid-term review report, and based upon the recommendations contained in that report, the Commission shall adopt a delegated act amending Annex II by 31 March 2018.

Article 14

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 13 shall be conferred on the Commission until 31 December 2020.

3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 15

Committee

The Commission shall be assisted by the European Neighbourhood Instrument Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

Article 16

Participation by a third country not covered by Article 1

1. In duly justified circumstances and in order to ensure the coherence and effectiveness of Union financing or to foster regional or trans-regional cooperation, the Commission may decide, on a case-by-case basis, to extend the eligibility of specific actions in accordance with Article 2 of Regulation (EU) No .../2014* to countries, territories and areas which would not otherwise be eligible for financing.

Notwithstanding Article 8(1) of Regulation (EU) No .../2014*, natural and legal persons from countries, territories and areas concerned may participate in the procedures implementing such actions.

2. Provision may be made in the programming documents referred to in Article 7 for the possibilities referred to in paragraph 1 of this Article.

Article 17

Financial envelope

1. The financial envelope for the implementation of this Regulation for the period from 2014 to 2020 shall be EUR 15 432 634 000 at current prices. Up to 5 % of the financial envelope shall be allocated to the cross-border cooperation programmes referred to in point (c) of Article 6(1).

* OJ: please insert the number in the text of the Regulation in document PE-CONS 130/13 (2011/0415 (COD)).

2. The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multiannual financial framework.
3. In accordance with Article 18(4) of Regulation (EU) No 1288/2013 of the European Parliament and of the Council¹, an indicative amount of EUR 1 680 000 000 from the different instruments for financing external action, namely the Development Cooperation Instrument established by Regulation (EU) No .../2014 of the European Parliament and of the Council^{2*}, the ENI, the Instrument for Pre-accession Assistance (IPA II) established by Regulation (EU) No .../2014^{**}, and the Partnership Instrument established by Regulation (EU) No .../2014 of the European Parliament and of the Council^{3***}, shall be allocated to actions in respect of learning mobility to or from partner countries within the meaning of Regulation (EU) No 1288/2013 and to cooperation and policy dialogue with authorities, institutions and organisations from those countries. Regulation (EU) No 1288/2013 shall apply to the use of those funds.

¹ Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions Nos 1719/2006/EC, 1720/2006/EC and 1298/2008/EC (OJ L 347, 20.12.2013, p. 50).

² Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L ...).

^{*} OJ: please insert the number in the text as well as the date and the OJ publication reference in the footnote of the Regulation in document PE-CONS 127/13 (2011/0406 (COD)).

^{**} OJ: please insert the number in the text of the Regulation in document PE-CONS 123/13 (2011/0404 (COD)).

³ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing a Partnership Instrument for cooperation with third countries (OJ L ...).

^{***} OJ: please insert the number in the text as well as the date and the OJ publication reference in the footnote of the Regulation in document PE-CONS 128/13 (2011/0411 (COD)).

The funding shall be made available through two multiannual allocations only, covering the first four years and the remaining three years respectively. The allocation of that funding shall be reflected in the multiannual indicative programming provided for in this Regulation, in line with the identified needs and priorities of the countries concerned. The allocations may be revised in the event of major unforeseen circumstances or important political changes in line with the priorities of the Union's external action.

Article 18

European External Action Service

This Regulation shall apply in accordance with Decision 2010/427/EU.

Article 19

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014 until 31 December 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

The President

For the Council

The President

ANNEX I

The partner countries referred to in Article 1 are:

Algeria

Armenia

Azerbaijan

Belarus

Egypt

Georgia

Israel

Jordan

Lebanon

Libya

The Republic of Moldova

Morocco

occupied Palestinian territory (oPt)

Syria

Tunisia

Ukraine

ANNEX II

Priorities for Union support under this Regulation

To support the achievement of the specific objectives provided for in Article 2, also taking into account jointly agreed documents as set out in Article 3(2), Union funding may address the priorities set out in points 1, 2 and 3 of this Annex.

Some of those priorities may be relevant for more than one type of programme. Possible amendments to this indicative list of priorities shall respect the principle of shared ownership.

Cross-cutting issues, including deep and sustainable democracy, human rights, gender equality, the fight against corruption and the environment, shall be addressed within those priorities.

1. Union support at bilateral level shall, as appropriate, address, inter alia, the following priorities:
 - human rights, good governance and the rule of law, including reform of justice, of the public administration and of the security sector;
 - institutional cooperation and capacity development, including for the implementation of Union agreements;
 - support to civil society actors and to their role in reform processes and democratic transitions;

- sustainable and inclusive economic development, including at regional and local level, and territorial cohesion;
- development of the social sectors, in particular for the youth, with a focus on social justice and cohesion and employment;
- trade and private-sector development, including support to small and medium-sized enterprises, employment and implementation of deep and comprehensive free trade areas;
- agriculture and rural development, including food security;
- sustainable management of natural resources;
- the energy sector, with a focus on energy efficiency and renewable energy;
- transport and infrastructure;
- education and skills development, including vocational education and training;
- mobility and migration management, including the protection of migrants;
- confidence-building and other measures contributing to the prevention and settlement of conflicts, including support to affected populations and reconstruction.

The priorities set out in this point may contribute to more than one objective of this Regulation.

2. Union support at multi-country level shall, as appropriate, address, inter alia, the following priorities:
- human rights, good governance and the rule of law;
 - institutional cooperation and capacity development;
 - regional cooperation, in particular in the framework of the Eastern Partnership, the Union for the Mediterranean and the Partnership for Democracy and Shared Prosperity;
 - higher education and skills development, students and staff mobility, youth and culture;
 - sustainable economic development, trade and private sector development and support to small and medium-sized enterprises;
 - the energy sector, including energy networks;
 - transport and infrastructure interconnections;
 - sustainable management of natural resources, including water, green growth, the environment and climate change adaptation and mitigation;
 - support to civil society;
 - mobility and migration management;

- confidence-building and other measures contributing to the prevention and settlement of conflicts.

The priorities set out in this point may contribute to more than one objective of this Regulation.

3. Union support through cross-border cooperation programmes shall, as appropriate, address the following priorities:

- economic and social development;
- the environment, public health, safety and security;
- the mobility of persons, goods and capital.

The priorities set out in this point reflect common challenges. They constitute the framework for the identification of specific priorities with the cross-border cooperation participating countries. Civil society organisations will be involved in the development of the programmes and will be, together with local and regional authorities, their main beneficiaries.

Financial allocations per type of programme

Bilateral programmes: up to 80 %

Multi-country programmes: up to 35 %

Cross-border cooperation: up to 5 %
