Regulation (EU) 2017/2306 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 230/2014 establishing an instrument contributing to stability and peace

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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,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) In the Joint statement on European Union Development Policy entitled 'The European Consensus'[(2)], and in the Joint statement on 'The New European Consensus on Development'[(3)], the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission recognised the link between security and development.

(2) In the 2030 Agenda for Sustainable Development, adopted by a Resolution of the United Nations General Assembly on 25 September 2015, the importance of promoting peaceful and inclusive societies both as a Sustainable Development Goal (SDG) 16 and in order to achieve other development policy outcomes was underlined. SDG 16.a specifically requests to 'Strengthen relevant national institutions, including through international cooperation, for building capacities at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime'.

(3) The primary objective of Union development policy is the reduction and, in the long term, the eradication of poverty.

(4) In the High Level Meeting Communiqué of 19 February 2016, the Development Assistance Committee of the Organisation for Economic Cooperation and Development updated the reporting directives on Official Development Assistance in the field of peace and security. The financing of the actions undertaken in accordance with this Regulation constitutes Official Development Assistance when it fulfils the criteria set out in those reporting directives or any subsequent reporting directives, which the Development Assistance Committee is able to agree upon.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2017/2306 of the European Parliament and of the Council. (See end of Document for details)*

(5) Giving support to security sector actors in third countries, including, under exceptional circumstances, the military, in a conflict prevention, crisis management or stabilisation context is essential to ensure appropriate conditions for poverty eradication and development. Good governance, effective democratic control and civilian oversight of the security system, including of the military, as well as compliance with human rights and the rule of law principles are essential attributes of a well-functioning State in any context, and should be promoted through a wider security sector reform support to third countries.

(6) In its conclusions of 19-20 December 2013 on Common Security and Defence Policy (CSDP), the European Council emphasised the importance of supporting partner countries and regional organisations, through providing training, advice, equipment and resources where appropriate, so that they can increasingly prevent or manage crises by themselves.

(7) In the Joint Communication of 28 April 2015 entitled ‘Capacity building in support of security and development – Enabling partners to prevent and manage crisis’, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy reiterated the need for stable and secure societies in order to achieve development objectives.

(8) In line with the EU Comprehensive Approach and in order to maximise the impact, efficiency and consistency of EU support, the Council in its conclusions of 18 May 2015 on CSDP invited the Commission and the High Representative for Foreign Affairs and Security Policy to develop, in consultation with Member States, a Union-wide strategic framework to support security sector reform. That policy concept brings together CSDP and all other relevant tools of Common Foreign and Security Policy (CFSP) as well as development cooperation instruments, while respecting their respective legal bases, primary objectives and decision-making procedures.

(9) Capacity building of military actors in third countries should be undertaken as part of the Union's development cooperation policy when it mainly pursues objectives in the field of development and as part of the Union's CFSP when it mainly pursues objectives in the field of peace and security, in compliance with Article 40 of the Treaty on European Union. This Regulation respects the application of the procedures and the extent of the powers of the institutions under the Union's development cooperation policy and the Union's CFSP.

(10) Union assistance under this Regulation could cover the provision of capacity building programmes in support of development and security for development, including training, mentoring and advice on, for example, human rights, governance and the rule of law, the protection of women and children, civilian crisis response, human resources management and technical cooperation.

(11) The Commission is to monitor measures under this Regulation closely. The Commission is to keep the European Parliament duly informed, in a timely manner, about the implementation of Union assistance pursuant to this Regulation. No later than 30 June 2020, the Commission is to evaluate the impact, effectiveness and coherence

of measures pursuant to this Regulation with the SDG 16. To that end, the Commission is to associate all relevant stakeholders, including civil society organisations and local authorities, in the evaluation phase ensuring they play a meaningful role in the process. The Commission is to undertake, where appropriate, joint evaluations with Member States. The results are to inform programme design and resource allocation, and to further enhance the consistency and complementarity of the Union's external action.

(12) Regulation (EU) No 230/2014 of the European Parliament and of the Council[(4)] should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 230/2014 is amended as follows:

(1) in Article 1(2), the following subparagraph is added:

> Where Union assistance is provided to the security sector actors, this may also include military actors under exceptional circumstances as provided for in Article 3a in the context of a wider security sector reform process or capacity building in support of development and security for development in third countries, in line with the overarching objective of achieving sustainable development.;

(2) the following Article is inserted:

Article 3a

Capacity building of military actors in support of development and security for development

1 In order to contribute to sustainable development, which requires the achievement of stable, peaceful and inclusive societies, Union assistance under this Regulation may be used to build the capacity of military actors in partner countries, under the exceptional circumstances as set out in paragraph 3, to deliver development activities and security for development activities.

2 Assistance pursuant to this Article may cover in particular the provision of capacity building programmes in support of development and security for development, including training, mentoring and advice, as well as the provision of equipment, infrastructure improvements and services directly related to that assistance.

3 Assistance pursuant to this Article shall be provided only:

a where requirements cannot be met by recourse to non-military actors to adequately reach Union objectives under this Regulation and there is a threat to the existence of functioning State institutions or to the protection of human rights and fundamental freedoms and State institutions cannot cope with that threat; and

b where a consensus exists between the partner country concerned and the Union that military actors are key for preserving, establishing or re-establishing the conditions essential for sustainable development, including in crises and fragile or destabilised contexts and situations.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2017/2306 of the European Parliament and of the Council. (See end of Document for details)*

4 Union assistance pursuant to this Article shall not be used to finance capacity building of military actors for purposes other than the delivery of development activities and security for development activities. In particular, it shall not be used to finance:

a recurrent military expenditure;

b the procurement of arms and ammunition, or any other equipment designed to deliver lethal force;

c training which is designed to contribute specifically to the fighting capacity of the armed forces.

5 When designing and implementing measures pursuant to this Article, the Commission shall promote ownership by the partner country. It shall also develop the necessary elements and the good practices required to ensure sustainability in the medium and long term and shall promote the rule of law and established international law principles.

6 The Commission shall establish appropriate risk assessment, monitoring and evaluation procedures for measures pursuant to this Article.;

(3) in Article 7, paragraph 1 is replaced by the following:

1. Union assistance pursuant to Article 3, and to Article 3a as appropriate, shall be provided through exceptional assistance measures and interim response programmes.;

(4) in Article 8, paragraph 1 is replaced by the following:

1. Thematic strategy papers shall constitute the general basis for the implementation of assistance pursuant to Articles 4 and 5, and to Article 3a as appropriate. Thematic strategy papers shall provide a framework for cooperation between the Union and the partner countries or regions concerned.;

(5) in Article 10, paragraph 1 is replaced by the following:

1. The Commission shall ensure that measures adopted under this Regulation in relation to the fight against terrorism and organised crime, as well as measures covered under Article 3a, are implemented in accordance with international law, including human rights law and international humanitarian law.;

(6) in Article 13, the following paragraph is added:

4. A further amount of EUR 100 000 000 shall be added to the financial envelope referred to in paragraph 1 and shall be allocated to measures falling under Article 3a..

Article 2

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

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