Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020

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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,

Having regard to the opinion of the Committee of the Regions[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) This Regulation forms part of the Union's development cooperation policy and constitutes one of the instruments providing support for the Union's external policies. It replaces Regulation (EC) No 1905/2006 of the European Parliament and of the Council[(3)], which expired on 31 December 2013.

(2) The fight against poverty remains the primary objective of the development policy of the Union, as laid down in Title V, Chapter 1 of the Treaty on European Union (TEU) and Title III, Chapter 1 of Part Five of the Treaty on the Functioning of the European Union (TFEU), in line with the Millennium Development Goals (MDGs) and other internationally agreed development commitments and objectives approved by the Union and by the Member States in the context of the United Nations (UN) and other competent international fora.

(3) The joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus'[(4)] (the 'European Consensus'), and agreed modifications thereto, provides the general policy framework, the orientations and the focus to guide the implementation of this Regulation.

(4) Over time, Union assistance should contribute to reducing aid dependence.

(5) The Union's action on the international scene is to be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to

advance in the wider world, namely democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity and respect for the principles of the United Nations Charter and international law. The Union is to seek to develop and consolidate commitment to those principles in partner countries, territories and regions through dialogue and cooperation. In pursuing those principles, the Union proves its added value as an actor in development policies.

(6) In implementing this Regulation, and in particular during the programming process, the Union should have due regard to the priorities, objectives and benchmarks in human rights and democracy established by the Union for partner countries, in particular its human rights country strategies.

(7) Respect for human rights, fundamental freedoms, the promotion of the rule of law, democratic principles, transparency, good governance, peace and stability and gender equality are essential for the development of partner countries, and those issues should be mainstreamed in the Union's development policy, particularly in programming and in agreements with partner countries.

(8) Aid effectiveness, greater transparency, cooperation and complementarity and better harmonisation, alignment with partner countries, as well as coordination of procedures, both between the Union and the Member States and in relations with other donors and development actors, are essential for ensuring the consistency and relevance of aid whilst at the same time reducing the costs borne by partner countries. Through its development policy, the Union is committed to implementing the conclusions of the Declaration on Aid Effectiveness adopted by the High Level Forum on Aid Effectiveness, held in Paris on 2 March 2005, the Accra Agenda for Action adopted on 4 September 2008 and their follow-up Declaration adopted in Busan on 1 December 2011. Those commitments have led to a number of conclusions of the Council and of the Representatives of the Governments of the Member States meeting within the Council, such as the EU Code of Conduct on Complementarity and Division of Labour in Development Policy and the Operational Framework on Aid Effectiveness. Efforts and procedures for achieving joint programming should be reinforced.

(9) Union assistance should support the Joint Africa-EU Strategy, adopted at the EU-Africa Summit on 8-9 December 2007 in Lisbon and subsequent modifications and additions thereto, based on the shared vision, principles and objectives underpinning the Africa-EU Strategic Partnership.

(10) The Union and the Member States should improve the consistency, coordination and complementarity of their respective policies on development cooperation, in particular by responding to partner countries' and regions' priorities at country and at regional level. To ensure that the Union's development cooperation policy and that of the Member States complement and reinforce each other, and to ensure cost-effective aid delivery while avoiding overlaps and gaps, it is both urgent and appropriate to provide for joint programming procedures which should be implemented whenever possible and relevant.

(11) The Union's policy and international action for development cooperation are guided by the MDGs such as the eradication of extreme poverty and hunger, including any subsequent modifications thereto, and by the development objectives, principles and commitments approved by the Union and the Member States, including in the context of their cooperation within the UN and other competent international fora in the field of development cooperation. The Union's policy and international action are also guided by its commitments and obligations concerning human rights and development, including the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the UN Convention on the Rights of the Child, and the UN Declaration on the Right to Development.

(12) The Union is strongly committed to gender equality as a human right, a question of social justice and a core value of the Union's development policy. Gender equality is central to the achievement of all MDGs. On 14 June 2010, the Council endorsed the EU Plan of Action 2010-2015 on Gender Equality and Women's Empowerment in Development.

(13) The Union should, as a matter of high priority, promote a comprehensive approach in response to crisis and disaster and to conflict-affected and fragile situations, including those of transition and post-crisis. This should, in particular, build on the Council conclusions of 19 November 2007 on an EU response to situations of fragility and the conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council, also dated 19 November 2007, on security and development, as well as build on the Council conclusions of 20 June 2011 on conflict prevention, as well as any relevant subsequent conclusions.

(14) Particularly in those situations where needs are most urgent and poverty both most widespread and deepest, Union support should be geared at strengthening the resilience of countries and their populations to adverse events. That should be done through the appropriate mix of approaches, responses and instruments, in particular by ensuring that the security-oriented, humanitarian and development approaches are balanced, consistent and effectively coordinated, thereby linking relief, rehabilitation and development.

(15) Union assistance should focus on where it has more impact, having regard to its capacity to act on a global scale and to respond to global challenges such as poverty eradication, sustainable and inclusive development and worldwide promotion of democracy, good governance, human rights and the rule of law, its long-term and predictable commitment to development assistance and its role in coordinating with the Member States. To ensure such impact, the principle of differentiation should be applied, not only at the level of fund allocation, but also at the level of programming, to ensure that bilateral development cooperation targets partner countries most in need, including fragile States and States with high vulnerability, and with limited capacity to access other sources of financing to support their own development. The Union should engage in new partnerships with countries that graduate from bilateral aid programmes, notably on the

basis of regional and thematic programmes under this instrument and other thematic Union instruments for financing external action, in particular the Partnership Instrument for cooperation with third countries as established by Regulation (EU) No 234/2014 of the European Parliament and of the Council[(5)] (the 'Partnership Instrument').

(16) 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 a comprehensive approach for each country based on coherence and complementarity between the Union's instruments for external action, as well as the creation of synergies between this instrument, 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. While striving for overall consistency of the Union's external action in accordance with Article 21 TEU, the Union is to ensure policy coherence for development as required by Article 208 TFEU.

(17) While respecting the principle of policy coherence for development, this Regulation should allow for enhanced consistency between Union policies. It should also enable full alignment with partner countries and regions by using, where possible, as the basis for the programming of the Union's action, national development plans or similar comprehensive development documents, adopted with the involvement of national and regional bodies concerned. It should furthermore pursue better coordination amongst donors, in particular between the Union and the Member States, through joint programming.

(18) In a globalised world, different internal Union policies such as environment, climate change, promotion of renewable energies, employment (including decent work for all), gender equality, energy, water, transport, health, education, justice and security, culture, research and innovation, information society, migration and agriculture and fisheries are increasingly becoming part of the Union's external action.

(19) A strategy for smart, sustainable and inclusive growth, i.e. involving growth patterns that enhance social, economic and territorial cohesion and enable the poor to increase their contribution to, and benefit from, national wealth, underlines the commitment of the Union to promote, in its internal and external policies, smart, inclusive and sustainable growth bringing together three pillars: economic, social and environmental.

(20) Fighting climate change and protecting the environment are among the great challenges which the Union and developing countries are facing, and where the need for national and international action is urgent. This Regulation should therefore contribute to the objective of addressing at least 20 % of the Union budget to a low carbon and climate resilient society, and the 'Global Public Goods and Challenges' programme provided for in this Regulation should use at least 25 % of its funds to cover climate change and environment. Actions in those areas should, wherever possible, be mutually supportive in order to reinforce their impact.

(21) This Regulation should enable the Union to contribute to fulfilling the joint Union commitment of providing continued support for human development to improve peoples' lives. To contribute to that end, at least 25 % of the 'Global Public Goods and Challenges' programme should support that area of development.

(22) At least 20 % of the assistance under this Regulation should be allocated to basic social services, with a focus on health and education, as well as to secondary education, recognising that a degree of flexibility must be the norm such as in cases where exceptional assistance is involved. Data concerning compliance with that requirement should be included in the annual report referred to in Regulation (EU) No 236/2014 of the European Parliament and of the Council[(6)].

(23) In the UN Istanbul Programme of Action for the Least Developed Countries for the Decade 2011–2020, least developed countries committed to integrate trade and trade capacity-building policies into their national development strategies. Furthermore, at the World Trade Organisation 8th Ministerial Conference held in Geneva on 15-17 December 2011, ministers agreed to maintain, beyond 2011, Aid for Trade levels that at least reflect the average of the period 2006-2008. Better and more targeted Aid for Trade and trade facilitation must accompany those efforts.

(24) While thematic programmes should primarily support developing countries, some beneficiary countries as well as the overseas countries and territories (OCTs) the characteristics of which do not satisfy the requirements allowing them to be defined as Official Development Assistance ('ODA') recipients by the Development Assistance Committee of the Organisation for Economic Cooperation and Development ('OECD/DAC') but which are covered by point (b) of Article 1(1) should also be eligible for thematic programmes subject to the conditions laid down in this Regulation.

(25) The details of areas of cooperation and adjustments of financial allocations per geographic area and area of cooperation constitute non-essential elements of this Regulation. Consequently, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission for updating the elements of the Annexes to this Regulation which set out the details of the areas of cooperation under geographic and thematic programmes and the indicative financial allocations per geographic area and area of cooperation. 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 with regard to the strategy papers and multiannual indicative programmes referred to in this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(7)].

(27) Given the nature of such implementing acts, in particular their policy orientation nature and their budgetary implications, the examination procedure should in principle be used for their adoption, except in the case of measures of a small financial scale.

(28) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the need for a swift response from the Union, imperative grounds of urgency so require.