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COVER NOTE

From: European External Action Service (EEAS)
To: Political and Security Committee (PSC)
Subject: Note from the High Representative of the Union for Foreign Affairs and Security Policy on options for improvement of the financing of civilian and military missions and operations

Delegations will find attached document EEAS 00960/14.

Encl.: Document EEAS 00960/14
NOTE

From: Crisis Management and Planning Directorate (CMPD)
To: Political and Security Committee
Subject: Note from the High Representative of the Union for Foreign Affairs and Security Policy on options for improvement of the financing of civilian and military missions and operations

I. Background

1. The European Council Conclusions of December 2013 state: The financial aspects of EU missions and operations should be rapidly examined, including in the context of the Athena mechanism review, with a view to improving the system of their financing, based on a report from the High Representative. The European Council invites the Commission, the High Representative and the Member States to ensure that the procedures and rules for civilian missions enable the Union to be more flexible and speed up the deployment of EU civilian missions. This Note should serve as a basis for the follow-up to the request of the European Council.
2. The issue is twofold. On the one hand, it raises the question of the availability of financial resources, on the other hand of the efficiency of the financial management of missions and operations. In the context of the roadmap on improving civilian CSDP management (doc 88/13 of 16 July 2013), various aspects on financial efficiency have been identified resulting in specific and ongoing work strands. In this context, the results of the feasibility study on the setting up of a Shared Services Centre and the inter-institutional discussion on the need to identify additional flexibility within the financial and procurement rules for CFSP are relevant. For military operations, the upcoming review of the Athena mechanism in the second half of 2014 offers the possibility for a more thorough analysis of the financial management of the military operations.

II. Legal and financial framework for CSDP-missions/operations

3. Article 41 of the Treaty on European Union (TEU) provides that administrative and operating expenditure to which the implementation of the Chapter on the Common Foreign and Security Policy (CFSP) gives rise shall be charged to the Union budget. It excludes operating expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise. In cases where expenditure is not charged to the Union budget, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council unanimously decides otherwise.

4. Civilian missions are on this basis financed by the CFSP budget, which is part of the Union budget. Military operations are financed by the Member States, including via the Athena mechanism for the management of the common costs of operations. The practice has been that in some cases a political assessment is needed to determine whether a specific task is more of a civilian or military nature.

5. Articles 42(4) and 43(2) TEU provide a substantial legal basis for CSDP missions and operations. Article 41(3) refers to the preparatory phase of missions and operations and foresees two possible Council Decisions:

   a) on specific procedures for guaranteeing rapid access to the Union budget for urgent financing of activities in the framework of the CFSP, and in particular for preparatory activities;

   b) on a start-up fund made up of Member States' contributions for CSDP tasks which are not or cannot be charged to the Union budget.

6. Another innovation of the Lisbon Treaty which merits an informed reflection is article 44 TEU. It allows for the possibility of entrusting a task to a group of Member States.

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1 In the case of EUSEC DRC, the Council decided its tasks are more of a civilian nature.
III. Civilian missions

7. For civilian missions, the recent review of the Crisis management procedures has led to the advancement of the Council decision establishing new missions and related introduction of two budget impact statements, the first aimed at covering the setting up phase of newly established missions until reaching Interim Operational Capability. With this early access to a proper budget, procurement and other expenditure is expected to be much facilitated.

8. Discussions on CFSP budget orientations for 2014 and 2015 are ongoing in PSC/RELEX. The CFSP budget comprises 2.34 billion EUR in current prices (2,075 billion EUR in constant prices 2011) for the period 2014 - 2020. The yearly budgets will remain flat over the period, ranging from 314 million EUR in 2014 up to 354 million EUR in 2020 (increase due to projected inflation). In 2014 the CFSP budget might offer a certain margin of manoeuvre. The CFSP budget, being in essence non-programmable, is thus used to react to situations which are difficult to predict due to changing political and operational circumstances. In a situation where the CFSP budget turns out to be insufficient, there are possibilities to top it up via the existing mechanisms (e.g. transfers from other budgetary lines, use of flexibility instrument).

9. There is also an ongoing work on the improvement of the management of the civilian CSDP missions. While some progress has already been achieved (legal capacity of the missions, early access to the budget), there are still issues to be tackled, in particular the question of pooling administrative and financial support to the missions, status of the staff, additional flexibility within the financial and procurement rules.

IV. Military operations

10. Military operations are financed directly by the Member States. Currently there are 5 military CSDP operations, with annual common costs of circa 78M€.

11. The common costs for the military operations financed via the Athena mechanism represent only a small share of the total costs. Most expenses are borne by Member States directly participating in an operation on the basis of the principle "costs lie as they fall".

12. One of the recurring problems in relation to military operations is timely and adequate force generation. The financial burden of deployment is, in view of budgetary constraints, increasingly a factor for Member States' decisions on possible contributions. The same budgetary constraints may also lead Member States to be cautious on expanding the common costs. In some cases, however, the lack of offered capabilities (e.g. Medevac)

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2 6047/14 of 3 February 2014
3 The pooling of administrative and financial support is currently envisaged through the setting up of a SSC.
4 The five current military missions and operations are: EUFOR ATALANTA, EUFOR RCA, EUTM Somalia, EUTM Mali and EUFOR Althea.
actually leads to the need to outsource, at higher common costs (not to mention the political costs). A remedy could be the **extension of the scope of the common costs** foreseen in the Athena mechanism, i.e. focus on more solidarity among Member States and provide incentives to MS to contribute (and so avoiding that those who actively participate also carry the main financial burden).

13. The issue of solidarity is particularly important in the case of the special arrangements for the financing of an **EU Battlegroup operation** (in which few BG participants would take on an operation on behalf of the Union as a whole), where strategic transport has been deemed eligible under the common costs. Several Member States have cited the financial burden of a possible EU BG operation as an inhibiting factor for considering a deployment. Similarly, ways should be explored to incentivise Member States to participate in a collectively agreed CSDP operation.

14. In this context, the feasibility of a mechanism to explore more joint (as opposed to common) financing could also be explored. **Joint financing** would mean (i) that not all Member States contribute to the financing of the operational costs other than common costs and (ii) that some Member States may finance these costs if they want. This could be applied in limited cases, for instance to finance the strategic transport of contributing MS and partners. Common costs would continue to be financed by all MS participating in the Athena mechanism. Joint costs would be financed by those MS agreeing specifically to finance a specific action together. This would require a clause in the Athena mechanism enabling it to manage joint financing in addition to common financing.

15. For **military-civilian** cooperation, more is needed. We should reflect on the changes of the **nature of the military operations**. The aims and objectives of a peace keeping/peace enforcing operation differ significantly from those of a military training mission. In this context, and keeping in mind that in the future we could have more CSDP missions with both civilian and military objectives, the case for combining Union and national resources, as foreseen in Art. 42(4) and 43 TEU, merits a thorough discussion. There are similarities between tasks performed by EUSEC DRC on the one hand and the advisory tasks of EUTM Somalia / EUTM Mali on the other hand: yet the former is financed through the CFSP budget, whereas the latter is financed using the Athena mechanism. A civ-mil CSDP mission could have the civilian tasks financed from the CFSP budget, and the military tasks implemented via the Athena mechanism. The AMIS EU Supporting action from 2005 constitutes a precedent.

16. Admittedly, such actions would require a higher degree of coordination between the two different modalities of the financial implementation. Still it could be argued that the coordination within one CSDP mission would be easier than between two separate ones. For this option to be taken forward, the implications, legal and other, in particular as to the **unified chain of command** would have to be explored.
17. Alternatively, we could explore the potential of SSR missions that are civilian in nature and that embed military expertise, as was the case in EUSSR Guinea-Bissau. If required, the Council could also decide that civilian tasks should be financed from contributions by the Member States.

18. Current rules for common funding in the ATHENA Decision are aimed at executive military operations with the standard command and control (OHQ/FHQ) arrangements. With the increasingly frequent establishment of training missions, the nature and complexity of EU military operations has evolved: among the three most recent military CSDP missions, two were training missions (EUTM Somalia and EUTM Mali); and the possibility of a similar effort in terms of contributing to the reconstruction of the Central African security forces will have to be analysed at some point. Consequently, there is a need to adapt the scope of common funding in order to mirror the reality of the new type of operation. This could, for example, include consideration of the whole training mission as an FHQ.

19. The increasing role of contractor support should also be taken into account. In order to ensure rapid and effective response with timely support common funding should be made available on a more permanent basis. This would permit rapid access to contracted solutions. A further facilitator is an increase in the number of administrative arrangements and framework contracts available to the military Operational Commander. Not only would this provide a speedier process for obtaining commercial expertise, but it would also create incentives for a greater commercial competition and better value for money for the overall mission costs.

20. The example of the Canadian contribution to the Malian armed forces in 2013 is an interesting case illustrating a need for an additional flexibility in the Athena mechanism. Before deciding on the contribution in form of a project managed by the mission, Canada was interested in a direct financial donation to the Malian armed forces. The Athena rules do not however foresee a situation where a third party could financially contribute to the costs of a military operation. As a lesson learnt it is recommendable to cater for such situations in the future where a third State or party is willing and capable to contribute with financial means or other assets.

21. In the opposite scenario, Third States or parties are sometimes willing to contribute to EU operations, but face financial constraints for instance in terms of strategic deployment or real life support. The provision of the financial support to Third States could be a more cost-effective solution than outsourcing a specific task to a contractor or generating forces by a Member State. A more structural approach to this issue should be explored during the revision of the Athena mechanism.
22. It is also possible that in the future some CSDP tasks could be conducted in a smaller circle of Member States varying from action to action. The recourse could be made to the provisions of Article 44 TUE which foresees that within a CSDP Decision the Council might entrust a task to a group of Member States which are willing and have the necessary capability for such a task. As this provision has not yet been used, its implementation would raise a number of questions. One important issue would concern financing. One option would be to collectively provide for the common costs of the mandated smaller group, or the group of Member States could decide itself about the financing arrangements. In theory, they could agree to apply the principle of costs lie as they fall, have the same common costs as in the Athena mechanism or decide to finance more in common. For the implementation of possible common costs recourse to the Athena mechanism could be made with the agreement of the other Member State. Another issue to reflect would be the relevance of the EU chain of command in the context of CSDP task carried out by a group of Member States.

V. Accompanying measures

23. In situations where we have different civilian missions and military operations in one geographical area synergies should be sought on issues such as combined headquarters and logistics. The possibility of the use of protection to civilian missions provided by assets from the Member States should be examined, in both operational and financial terms, as it could be more cost-effective than hiring private security companies (the security expense for EUPOL Afghanistan amounted to 15M€ in 2013; for EUBAM Libya the cost on an annual basis is expected to be 7.8M€). At the same time, more synergies could be created within CSDP mission planning and conduct.

24. For civilian missions, project cells and project implementation are not new. For training and advice tasks in particular, there is often a need for essential hardware for host states, inter alia for IT systems, buildings and electricity, transportation, documentation and other training equipment. These needs can be partly financed from the budget of the mission or via projects financed by other donors and implemented or coordinated by the mission provided that such contributions are consistent with the mission's mandate. For military operations, recourse to project cells could also be made more frequently. Currently, the Financial Regulation does not provide for the CSDP missions to implement any other Union project outside the CFSP budget.

25. Crisis management missions enable the EU to have a greater role in peace-keeping, conflict prevention and in the strengthening of the international security. The environments in which CSDP missions operate are unstable, post-conflict settings, with time spans of mandates focused on short/mid-term delivery and building blocks for further development. In order to ensure the sustainability of EU efforts as well as overall external action consistency,

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5 The Athena Decision would need to be amended to cater for such an eventuality.
synergies with EU cooperation instruments should therefore be sought, while respecting the primary, specific objective of each policy and instrument, as highlighted in the Joint Commission-HR Communication on the EU Comprehensive Approach to External Conflict and Crises⁶.

26. In this regard the discussions on equipment support for CSDP missions and operations at the end of 2013⁷ and the various taskings from the November 2013 FAC and the December 2013 and March 2014 European Councils are of relevance. Equipment for civilian law enforcement services is eligible for funding under EU cooperation instruments (when pursuing a primarily developmental or other EU cooperation objective) as well as under the CFSP budget (when pursuing a primarily foreign, security policy objective). Under the European Development Fund (EDF), which is funded outside of the EU budget, the provision of equipment for the military is also possible, notably in the context of the African Peace Facility (APF), although certain restrictions apply⁸. The fact that the EDF is not entirely tied to ODA eligibility requirements, may also allow for the provision of equipment to the military outside of the APF framework, provided that the action ultimately pursues a primarily developmental goal. Moreover, support to the military to perform developmental and humanitarian tasks⁹ is eligible for funding under the EU budget and generally compliant with ODA requirements. Likewise, defence ministries as part of the public administration of a given country may also benefit from EU support in the context of wider 'governance' programmes (public administration reform, public financial management, etc.), which may include the provision of equipment. The ongoing discussions regarding "DAC-ability" of development assistance may introduce additional flexibility in this regard.

27. The prohibition in Art. 41(2) to finance from the Union budget expenditure arising from operations having military or defence 'implications' should therefore not be understood as a complete interdiction to provide EU support to the military, including equipment. As stated above, such support, with certain restrictions, can be eligible for funding under the CFSP budget or EU cooperation instruments (even those tied to ODA requirements), depending on the scope of the action and its primary objective. Outside of the EU budget, possibilities also exist within the EDF, which have not been fully explored and which may be widened in the future.

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⁷ EEAS/CMPD MD 015/13 & PMG recommendations 15409/13
⁸ Equipment is provided in the context of African peace-keeping operations and it excludes lethal weapons, including their spare parts, ammunitions, soldiers' salaries and military training.
⁹ E.g., reconstruction, mine clearance, removal of unexploded ordnance and other remnants of war, collection and destruction of small arms and light weapons, disarmament and demobilisation of ex-combatants, etc.