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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)
Subject: Proposal for a Decision of the European Parliament and of the Council on providing Macro-Financial Assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic crisis

1. On 22 of April 2020 the Commission transmitted to the Council the proposal for a Decision of the European Parliament and of the Council on providing Macro-Financial Assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic crisis (ST 7476/1/20 REV 1).
2. The coordinators of the European Parliament's Committee on International Trade (INTA) decided to apply the urgent procedure for this dossier on 28 of April.
3. The proposal was examined by the Financial Counsellors Working Party on 29 of April 2020. Delegations gave broad support to the proposal, including preference for a speedy adoption of the legal text. The working party did not object to the Presidency's approach of proceeding by taking over the Commission's proposal, as set out in Annex of this note.

4. After informal contacts between the European Parliament and the Council, and agreement in the form of the original Commission proposal was found, which is set out in Annex of this note.
5. On that basis, the Permanent Representatives Committee is invited:
 - to approve the final compromise text, as set out in the Annex to this note;
 - to authorize the Presidency to send a letter to the Chair of the European Parliament's Committee on International Trade (INTA) confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in Annex to this note, the Council would, in accordance with Article 294 paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in that wording, subject, if necessary, to revision by the legal linguists of both institutions;

2020/0065 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**on providing Macro-Financial Assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic crisis**

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 Article 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,

Whereas:

- (1) The current COVID-19 crisis has very damaging effects on economic and financial stability in the enlargement and neighbourhood regions. Partners are currently facing a weak and rapidly worsening balance-of-payments and fiscal situation, with the economy moving into recession. There is a strong case for the EU to move quickly and decisively in support of these economies. This proposal for the Union's macro-financial assistance therefore covers ten partners: the Republic of Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, the Republic of North Macedonia in the enlargement region; Georgia, the Republic of Moldova and Ukraine in the Eastern neighbourhood and the Hashemite Kingdom of Jordan and the Republic of Tunisia in the Southern neighbourhood (henceforth "partner(s)").
- (2) The urgency of the assistance is related to the immediate need of the partners for funds, in addition to those which will be provided through other EU instruments and by international financial institutions, EU Member States and other bilateral donors, in order to create short-term policy space for the authorities to implement measures to counter the economic fallout from the the COVID-19 crisis.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

- (3) The authorities of each partner and the International Monetary Fund (IMF) have agreed or are expected to agree shortly on a programme that will be supported by a financing arrangement with the IMF.
- (4) The Union's macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support, which aims at addressing the beneficiary's immediate external financing needs in tandem with a disbursing arrangement with the International Monetary Fund (IMF) that is subject to an agreed programme of economic reforms. In the context of the COVID-19 crisis, the Union's macro-financial assistance should also be available to partners that benefit from emergency funding from the IMF, which can come without prior actions and/or conditionality, such as through the Rapid Financing Instrument (RFI). This assistance should therefore be shorter in duration, limited to two disbursements and underpin the implementation of a policy programme containing a limited set of reform measures.
- (5) Financial support from the Union to the partners is consistent with the Union's policy as set out in the enlargement and neighbourhood policies.
- (6) Given that the partners are either accession / pre-accession partners or covered by the ENP, they are eligible to receive the Union's macro-financial assistance.
- (7) Given that the drastically worsening external financing needs of the partners are expected to be well above the resources that will be provided by the IMF and other multilateral institutions, the Union's macro-financial assistance to be provided to the partners is, under the current exceptional circumstances, considered to be an appropriate response to the partners' requests to support financial stabilisation. The Union's macro-financial assistance would support the economic stabilisation, supplementing resources made available under the IMF's financial arrangement.
- (8) The Union's macro-financial assistance should aim to support the restoration of a sustainable external financing situation for the partners thereby supporting renewed economic and social development.
- (9) The amount of the Union's macro-financial assistance is based on a preliminary estimate of each partner's residual external financing needs and takes into account its capacity to finance itself with its own resources, in particular the international reserves at its disposal. The Union's macro-financial assistance should complement the programmes and resources provided by the IMF and the World Bank. The determination of the amount of the assistance also takes into account the need to ensure fair burden sharing between the Union and other donors, as well as the pre-existing deployment of the Union's other external financing instruments and the added value of the overall Union involvement.
- (10) The Commission should ensure that the Union's macro-financial assistance is legally and substantially in accordance with the key principles and objectives of, and the measures taken within, the different areas of external action and other relevant Union policies.

- (11) The Union's macro-financial assistance should support the Union's external policy towards the partners. The Commission services and the European External Action Service should work closely together throughout the macro-financial assistance operation in order to coordinate, and to ensure the consistency of, the Union's external policy.
- (12) The Union's macro-financial assistance should support the partners' commitment to values shared with the Union, including democracy, the rule of law, good governance, respect for human rights, sustainable development and poverty reduction, as well as its commitment to the principles of open, rule-based and fair trade.
- (13) A pre-condition for granting the Union's macro-financial assistance should be that the partners respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and guarantees respect for human rights. In addition, the specific objectives of the Union's macro-financial assistance should strengthen the efficiency, transparency and accountability of the public finance management systems in the partners and to promote structural reforms aimed at supporting sustainable growth and fiscal consolidation. Both fulfilment of the preconditions and the achievement of those objectives should be regularly monitored by the Commission and the European External Action Service.
- (14) In order to ensure that the Union's financial interests linked to the Union's macro-financial assistance are protected efficiently, the partners should take appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to the assistance. In addition, provision should be made for the Commission to carry out checks, for the Court of Auditors to carry out audits and for the European Public Prosecutor's Office to exercise its competences.
- (15) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and the Council (as the Union's budgetary authority).
- (16) The amounts of the provision required for macro-financial assistance should be consistent with the budgetary appropriations provided for in the multi-annual financial framework.
- (17) The Union's macro-financial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Council are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to the assistance and provide them with relevant documents.
- (18) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.¹

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).

- (19) The Union’s macro-financial assistance should be subject to economic policy conditions, to be laid down in a Memorandum of Understanding. In order to ensure uniform conditions of implementation and for reasons of efficiency, the Commission should be empowered to negotiate such conditions with the authorities of the partner under the supervision of the committee of representatives of the Member States in accordance with Regulation (EU) No 182/2011. Under that Regulation, the advisory procedure should, as a general rule, apply in all cases other than as provided for in that Regulation. Considering the potentially important impact of assistance of more than EUR 90 million, it is appropriate that the examination procedure be used for operations above that threshold. Considering the amount of the Union’s macro-financial assistance to each partner, the advisory procedure should apply to the adoption of the Memorandum of Understanding with Montenegro, while the examination procedure should apply to the adoption of the Memorandum of Understanding with the other partners covered by this Decision, and correspondingly for any reduction, suspension or cancellation of the assistance,

HAVE ADOPTED THIS DECISION:

Article 1

1. The Union shall make macro-financial assistance (“the Union’s macro-financial assistance”) available to the Republic of Albania, Bosnia and Herzegovina, Georgia, the Hashemite Kingdom of Jordan, Kosovo, the Republic of Moldova, Montenegro, the Republic of North Macedonia, the Republic of Tunisia and Ukraine (“partner(s)”) for a maximum total amount of EUR 3 billion, with a view to supporting the partners’ economic stabilisation and a substantive reform agenda. The assistance shall contribute to covering the partners’ urgent balance-of-payments needs as identified in the programme supported by the International Monetary Fund (IMF) and shall be made available as follows:
 - (a) EUR 180 million for the Republic of Albania;
 - (b) EUR 250 million for Bosnia-Herzegovina;
 - (c) EUR 150 million for Georgia;
 - (d) EUR 200 million for the Hashemite Kingdom of Jordan;
 - (e) EUR 100 million for Kosovo;
 - (f) EUR 100 million for the Republic of Moldova;
 - (g) EUR 60 million for Montenegro;
 - (h) EUR 160 million for the Republic of North Macedonia;
 - (i) EUR 600 million for the Republic of Tunisia;
 - (j) EUR 1.2 billion for Ukraine.

2. The full amount of the Union's macro-financial assistance shall be provided to each partner in the form of loans. The Commission shall be empowered on behalf of the Union to borrow the necessary funds on the capital markets or from financial institutions and to on-lend them to the partner. The loans shall have a maximum average maturity of 15 years.
3. The release of the Union's macro-financial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and the partner. The Commission shall regularly inform the European Parliament and the Council of developments regarding the Union's macro-financial assistance, including disbursements thereof, and shall provide those institutions with the relevant documents in due time.
4. The Union's macro-financial assistance shall be made available for a period of 12 months, starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 3(1).
5. If the financing needs of a partner decrease fundamentally during the period of the disbursement of the Union's macro-financial assistance compared to the initial projections, the Commission, acting in accordance with the examination procedure referred to in Article 7(2), shall reduce the amount of the assistance or suspend or cancel it.

Article 2

1. A pre-condition for granting the Union's macro financial assistance shall be that the partner respects effective democratic mechanisms – including a multi-party parliamentary system – and the rule of law, and guarantees respect for human rights.
2. The Commission and the European External Action Service shall monitor the fulfilment of this pre-condition throughout the life-cycle of the Union's macro-financial assistance.
3. Paragraphs 1 and 2 of this his Article shall be applied in accordance with Council Decision 2010/427/EU.²

Article 3

1. The Commission, in accordance with the examination procedure referred to in Article 7(2), shall agree with the authorities of each partner on clearly defined economic policy and financial conditions, focusing on structural reforms and sound public finances, to which the Union's macro-financial assistance is to be subject, to be laid down in a Memorandum of Understanding (“the Memorandum of Understanding”) which shall include a timeframe for the fulfilment of those conditions. The economic policy and financial conditions set out in the Memorandum of Understanding shall be consistent with the agreements or understandings referred to in Article 1(3), including the macroeconomic adjustment and structural reform programmes implemented by the partner, with the support of the IMF.

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).

2. The conditions referred to in paragraph 1 shall aim, in particular, at enhancing the efficiency, transparency and accountability of the public finance management systems in the partners, including for the use of the Union's macro-financial assistance. Progress in mutual market opening, the development of rules-based and fair trade, and other priorities in the context of the Union's external policy shall also be duly taken into account when designing the policy measures. Progress in attaining those objectives shall be regularly monitored by the Commission.
3. The detailed financial terms of the Union's macro-financial assistance shall be laid down in a Loan Agreement to be concluded between the Commission and the authorities of each partner separately.
4. The Commission shall verify at regular intervals that the conditions referred to in Article 4(3) continue to be met, including whether the economic policies of the partner are in accordance with the objectives of the Union's macro-financial assistance. In so doing, the Commission shall coordinate closely with the IMF and the World Bank, and, where necessary, with the European Parliament and the Council.

Article 4

1. Subject to the conditions referred to in paragraph 3, the Union's macro-financial assistance shall be made available by the Commission two loan instalments. The size of each instalment shall be laid down in the Memorandum of Understanding referred to in Article 3.
2. The amounts of the Union's macro-financial assistance shall be provisioned, where required, in accordance with Council Regulation (EC, Euratom) No 480/2009.³
3. The Commission shall decide on the release of the instalments subject to the fulfilment of all of the following conditions:
 - (a) the pre-condition set out in Article 2;
 - (b) a continuous satisfactory track record of implementing a non-precautionary IMF credit arrangement;
 - (c) the satisfactory implementation of the economic policy and financial conditions agreed in the Memorandum of Understanding.

The release of the second instalment shall not, in principle, take place earlier than three months after the release of the first instalment.

³ Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

4. Where the conditions referred to in the first subparagraph of paragraph 3 are not met, the Commission shall temporarily suspend or cancel the disbursement of the Union's macro-financial assistance. In such cases, it shall inform the European Parliament and the Council of the reasons for the suspension or cancellation.
5. The Union's macro-financial assistance shall be disbursed to the central bank of the partner. Subject to the provisions to be agreed in the Memorandum of Understanding, including a confirmation of residual budgetary financing needs, the Union funds may be transferred to the Ministry of Finance as the final beneficiary.

Article 5

1. The borrowing and lending operations related to the Union's macro-financial assistance shall be carried out in euro using the same value date and shall not involve the Union in the transformation of maturities, or expose it to any exchange or interest rate risk, or to any other commercial risk.
2. Where the circumstances permit, and if the partner so requests, the Commission may take the steps necessary to ensure that an early repayment clause is included in the loan terms and conditions and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.
3. Where circumstances permit an improvement of the interest rate of the loan and if the partner so requests, the Commission may decide to refinance all or part of its initial borrowings or may restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with paragraphs 1 and 4 and shall not have the effect of extending the maturity of the borrowings concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.
4. All costs incurred by the Union which relate to the borrowing and lending operations under this Decision shall be borne by the partner.
5. The Commission shall inform the European Parliament and the Council of developments in the operations referred to in paragraphs 2 and 3.

Article 6

1. The Union's macro-financial assistance shall be implemented in accordance with Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council.⁴
2. The Union's macro-financial assistance shall be implemented under direct management.
3. The Loan Agreement referred to in Article 3(3) shall contain provisions:
 - (a) ensuring that the partner regularly checks that financing provided from the budget of the Union has been properly used, takes appropriate measures to prevent irregularities and fraud, and, if necessary, takes legal action to recover any funds provided under this Decision that have been misappropriated;
 - (b) ensuring the protection of the Union's financial interests, in particular providing for specific measures in relation to the prevention of, and fight against, fraud, corruption and any other irregularities affecting the Union's macro-financial assistance, in accordance with Council Regulation (EC, Euratom) No 2988/95⁵, Council Regulation (EC, Euratom) No 2185/96⁶, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁷ and, for those Member States participating in enhanced cooperation regarding the European Public Prosecutor's Office, Council Regulation (EU) 2017/1939.⁸ Notably, to that end, the European Anti-Fraud Office (OLAF) shall be expressly authorised to carry out investigations, including in particular on-the-spot checks and inspections including digital forensic operations and interviews;
 - (c) expressly authorising the Commission, or its representatives to carry out checks, including on-the-spot checks and inspections;

⁴ Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.07.2018, p. 1).

⁵ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁶ Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission to protect the Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁷ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁸ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

- (d) expressly authorising the Commission and the Court of Auditors to perform audits during and after the availability period of the Union's macro-financial assistance, including document audits and on-the-spot audits, such as operational assessments;
 - (e) ensuring that the Union is entitled to early repayment of the loan where it has been established that, in relation to the management of the Union's macro-financial assistance, the partner has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union.
 - (f) ensuring that all costs incurred by the Union that relate to a financial assistance shall be borne by the partner.
4. Before the implementation of the Union's macro-financial assistance, the Commission shall assess by means of an operational assessment, the soundness of the partner's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

Article 7

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply to the Union's macro-financial assistance for Montenegro, while Article 5 of Regulation (EU) No 182/2011 shall apply to the Union's macro-financial assistance for the other partners covered by this Decision.

Article 8

1. By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation of that implementation. The report shall:
 - (a) examine the progress made in implementing the Union's macro-financial assistance;
 - (b) assess the economic situation and prospects of the partners, as well as progress made in implementing the policy measures referred to in Article 3(1);
 - (c) indicate the connection between the economic policy conditions laid down in the Memorandum of Understanding, the partners' on-going economic and fiscal performance and the Commission's decisions to release the instalments of the Union's macro-financial assistance.

2. Not later than two years after the expiry of the availability period referred to in Article 1(4), the Commission shall submit to the European Parliament and to the Council an ex post evaluation report, assessing the results and efficiency of the completed Union's macro-financial assistance and the extent to which it has contributed to the aims of the assistance.

Article 9

This Decision shall enter into force on the day after its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament
The President

For the Council
The President