



Council of the European Union  
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WK 8991/2020 INIT

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### WORKING PAPER

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### **WORKING DOCUMENT**

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From:	General Secretariat of the Council
To:	Ad Hoc Working Party on the MFF Neighbourhood, Development and International Cooperation Instrument (AH WP - MFF NDICI)

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Subject:	NDICI: Thematic Cluster IX - Definitions
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Delegations will find attached a document on the above. The Presidency is kindly asking the Member States to submit any concerns or red lines related to the EP amendments.

The deadline for the written comments is **11 September 2020 by 12:00 (noon)**. The comments should be sent to: [mff.ndici@consilium.europa.eu](mailto:mff.ndici@consilium.europa.eu) and copy to: [Dorothee.Starck@diplo.de](mailto:Dorothee.Starck@diplo.de) , [Thomas.Stiegler@diplo.de](mailto:Thomas.Stiegler@diplo.de) and [rayo.shroff@giz.de](mailto:rayo.shroff@giz.de).

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**LIMITE**

**EN**

**Draft**  
**Regulation of the European Parliament and of the Council establishing**  
**the Neighbourhood, Development and International Cooperation Instrument**  
**(NDICI) \***

**Definitions**

- Article 2 – Subject matter

<i>Line</i>	<i>Commission proposal</i>	<i>EP position</i>	<i>Council partial negotiating mandate</i>	<i>Possible compromise</i>	<i>Comments</i>
66.	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions		
67.	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:		
68.	(1) “country programme” shall mean an indicative programme covering one country;	(1) “country programme” shall mean an indicative programme covering one country;	(1) “country programme” shall mean an indicative programme covering one country;		
69.	(2) “multi-country	(2) “multi-country	(2) “multi-country		

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- \* The proposed Regulation is part of the package of proposals linked to the MFF 2021-2027 and therefore dependent on the outcome of the horizontal negotiations. Pending these, the reference amounts in Article 6 are put within square brackets. Other provisions of the draft NDICI Regulation appear in square brackets due to their inclusion in the draft Negotiating Box set out in ST 10010/19. Moreover, other provisions have been bracketed and the discussions on them are ongoing. All provisions which appear between square brackets are excluded from the Council negotiating mandate at this stage. Provisions related to the participation of non-EU countries have not been amended due to the horizontal nature of such provisions.

<i>Line</i>	<i>Commission proposal</i>	<i>EP position</i>	<i>Council partial negotiating mandate</i>	<i>Possible compromise</i>	<i>Comments</i>
	programme” shall mean an indicative programme covering more than one country;	programme” shall mean an indicative programme covering more than one country;	programme” shall mean an indicative programme covering more than one country;		
70.	(3) “cross-border cooperation” shall mean cooperation between one or more Member States, and one or more third countries and territories along the external borders of the Union.	(3) “cross-border cooperation” shall mean cooperation between one or more Member States, and one or more third countries and territories along the external borders of the Union.	(3) “cross-border cooperation” shall mean cooperation between one or more Member States, and one or more third countries and territories along the external <b><i>land and maritime</i></b> borders of the Union. <b><i>Cross-border cooperation in this Regulation shall be understood to cover external cross-border cooperation, transnational cooperation over larger transnational territories or around sea basins and interregional cooperation as laid down in the [ETC Regulation].</i></b>		
71.	(4) “regional programme” shall mean an indicative multi-country programme covering more than one third country within the same geographic area as established in Article 4(2);	(4) “regional programme” shall mean an indicative multi-country programme covering more than one third country within the same geographic area as established in Article 4(2);	(4) “regional programme” shall mean an indicative multi-country programme covering more than one third country within the same geographic area as established in Article 4(2);		

<i>Line</i>	<i>Commission proposal</i>	<i>EP position</i>	<i>Council partial negotiating mandate</i>	<i>Possible compromise</i>	<i>Comments</i>
72.	(5) “trans-regional programme” shall mean an indicative multi-country programme covering more than one third country from different areas as established in Article 4(2) of this Regulation;	(5) “trans-regional programme” shall mean an indicative multi-country programme covering more than one third country from different areas as established in Article 4(2) of this Regulation;	(5) “trans-regional programme” shall mean an indicative multi-country programme covering more than one third country from different areas as established in Article 4(2) of this Regulation;		
73.	(6) “legal entity” shall mean any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)© of the Financial Regulation;	(6) “legal entity” shall mean any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)© of the Financial Regulation;	(6) “legal entity” shall mean any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)© of the Financial Regulation;		
73. bis		<b><i>(6a) “civil society organisations” means all non-State, not-for-profit, and non-violent structures through which people organise to pursue shared objectives and ideals, whether political,</i></b>			

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		<i>cultural, social, economic, religious, environmental, or holding authorities to account, which operate at local, national, regional or international level, and which may include urban and rural as well as formal and informal organisations; in the context of the thematic programme on human rights and democracy, “civil society” includes individuals or groups that are independent from the State and whose activities help to promote human rights and democracy, including human rights defenders as defined by the UN Declaration on the Right and Responsibility of Individuals;</i>			
73. ter		<i>(6b) “local authorities” means branches of government or public authorities, which operate at sub-national level (e.g. municipal, community,</i>			

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		<b><i>district, county, provincial or regional level);</i></b>			
74.	(7) “investment window” shall mean a targeted area for support by the EFSD+ Guarantee to portfolios of investments in specific regions, countries or sectors;	(7) “investment window” shall mean a targeted area for support by the EFSD+ Guarantee to portfolios of investments in specific regions, countries or sectors;	(7) “investment window” shall mean a targeted area for support by the EFSD+ Guarantee to portfolios of investments in specific regions, countries or sectors;		
74. bis			<b><i>(7 bis) “additionality” shall have the meaning prescribed to it in Article 209(2) of the Financial Regulation and shall ensure that the External Action Guarantee support under the EFSD+ contributes to sustainable development by operations which could not have been carried out without that Guarantee, or which achieve positive results above and beyond what could have been achieved without it. Additionality also means crowding in private sector funding and addressing market failures or sub-optimal investment</i></b>		

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			<p><i>situations as well as improving the quality, sustainability, impact or scale of an investment. The principle also ensures that External Action Guarantee operations do not replace the support of a Member State, private funding or another Union or international financial intervention, and avoid crowding out other public or private investments unless duly justified in accordance with the strategic objectives of this Regulation. Projects supported by the External Action Guarantee typically have a higher risk profile than the portfolio of investments supported by the eligible counterparts under their normal investment policies without the External Action Guarantee;</i></p>		
74. ter			<i>(7 ter) “operations with sovereign counterparts</i>		

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			<i>and non-commercial sub-sovereign counterparts” shall mean any operation where the counterpart is either directly a State or a public entity fully backed by an explicit guarantee of the State because it does not have the legal capacity and/or the financial autonomy/ability to benefit from necessary direct financing;</i>		
74. quater			<i>(7 quater) “operations with commercial sub-sovereign counterparts” shall mean any operation where the counterpart is a public entity not backed by an explicit guarantee of a State and that is financially able to borrow at its own risk and has the legal capacity to do so;</i>		
75.	(8) “contributor” shall mean a Member State, an international finance institution, or a public institution of a Member State, a public agency or other entities contributing	(8) “contributor” <del>shall mean</del> <b>means</b> a Member State, an international finance institution, or a public institution of a Member State, a public agency or other <b>public or</b>	(8) “contributor” shall mean a Member State, an international finance institution, or a public institution of a Member State, a public agency, or other entities contributing		



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	in cash or in guarantees to the common provisioning fund.	<i>private</i> entities contributing in cash or in guarantees to the common provisioning fund;	in cash or in guarantees to the common provisioning fund-;		
75. bis		<i>(8a) ‘additionality’ means the principle which ensures that the External Action Guarantee contributes to sustainable development by operations which could not have been carried out without it, or which achieve positive results above and beyond what could have been achieved without it, as well as crowding in private sector funding and addressing market failures or sub-optimal investment situations as well as improving the quality, sustainability, impact or scale of an investment. The principle also ensures that investment and financing operations covered by the External Action Guarantee do not replace the support of a</i>			

<i>Line</i>	<i>Commission proposal</i>	<i>EP position</i>	<i>Council partial negotiating mandate</i>	<i>Possible compromise</i>	<i>Comments</i>
		<p><i>Member State, private funding or another Union or international financial intervention, and avoid crowding out other public or private investments. Projects supported by the External Action Guarantee typically have a higher risk profile than the portfolio of investments supported by the eligible counterparts under their normal investment policies without the External Action Guarantee;</i></p>			
75. ter		<p><i>(8b) “industrialised countries” means third countries other than developing countries included in the OECD-Development Assistance Committee’s (‘OECD-DAC’) list of Official Development Assistance (‘ODA’) recipients;</i></p>			
75. quarter		<p><i>(8c) “poverty” means all the conditions in which people are deprived and perceived as incapacitated</i></p>			

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		<i>in different societies and local contexts; the core dimensions of poverty include economic, human, political, socio-cultural and protective capabilities;</i>			
75. quin-ques		<i>(8d) “gender sensitivity” means acting with the aim of understanding and taking account of the societal and cultural factors involved in gender-based exclusion and discrimination in all spheres of public and private life;</i>			
75. sex-ies		<i>(8e) “conflict sensitivity” means acting with the aim of understanding that any initiative conducted in a conflict-affected environment will interact with that conflict and that such interaction will have consequences that may have positive or negative effects; conflict sensitivity also means ensuring that, to the best of its abilities, Union actions (political,</i>			

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		<i>policy, external assistance) avoid having a negative impact and maximise the positive impact on conflict dynamics, thereby contributing to conflict prevention, structural stability and peace building.</i>			
75. sept-ies		<i>Where reference is made to human rights, it shall be understood as to include fundamental freedoms;</i>			
75. oct-ies		<i>In the context of Article 15, “countries most in need” may also include the countries listed in Annex I.</i>	<i>(9) “partner countries” shall mean countries and territories that may benefit from EU support under this Instrument pursuant to Article 4.</i>		