

Working Group VII

Working document 24

Working Group VII – " External Action "

Subject: "CFSP financing: CFSP budget execution during the last 3 years and Flexibility in financing CFSP"

- Document presented by the Commission Services and forwarded by Mr Michel Barnier, member of the Convention



COMMISSION EUROPÉENNE

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Monsieur le Président,

En complément à la note du secrétariat sur les aspects financiers des actions extérieures (WD 14), je vous transmets ci-joint une note des services de la Commission sur la question plus spécifique du financement de la PESC.

Etant donné le grand intérêt exprimé par les membres du groupe sur cette question, il m'a semblé utile de leur transmettre cette note de dossier.

Je vous prie de croire, Monsieur le Président, à l'assurance de ma meilleure considération.

Michel BARNIER



CFSP financing:

CFSP budget execution during the last 3 years and Flexibility in financing CFSP

1. Background on the Financing of CFSP

1.1. Treaty provisions

Article 28 of the EU Treaty stipulates that as a rule CFSP operational expenditure should be charged to the budget of the EC. Before the Amsterdam Treaty entered into force, the EU Treaty in its Maastricht version foresaw two ways of financing CFSP actions: either through ad hoc contributions by Member States, or through the EC budget.

At Amsterdam it was decided to charge operational expenses, as a rule, to the EC budget. As an exception to this rule and only on the basis of a unanimous decision of the Council, Article 28 allows for financing of CFSP actions outside the EC budget. At the same token, Article 28 bars any financing of defence or military operations through the EC budget.

The implementation of the appropriations in the EC budget dedicated to CFSP (B8-01 Chapter of the EC budget), follows the normal Community rules in compliance with Art. 274 of the EC Treaty. This means that the Commission is responsible for the execution within the limits of the budget as decided by the budgetary authority, namely the European Parliament and the Council.

1.2. Implementation of the CFSP budget

Art. 28 par. 3 of the EU Treaty defines the nature of the expenses that can be financed through the EC budget as operational expenses stemming from Council Joint Actions decided under Article 14 of the EU Treaty without military or defence implications.

The European Parliament is not involved in the decision-taking of Joint Actions but is one branch of the budgetary authority. In order to allow parliamentary control being exercised by the European Parliament in the budget process and in order to satisfy the requirements for financial accountability set by the European Court of Auditors, a special heading in the Inter-Institutional Agreement (IIA) of 6 May 1999 has been agreed defining the responsibilities of the 3 Institutions (European Parliament, Commission, Council).

Each specific Joint Action decided by the Council forms the legal basis for a Financing Decision of the Commission¹. Upon the latter a financing agreement can be signed between the Commission and an ad-hoc implementing body, such as the Office of the Stability Pact in the Balkans, the European Union Police Mission in Bosnia-Herzegovina (EUPM), the European Union Monitoring Mission in the Balkans (EUMM), Special Advisors like for Palestine or Cambodia, International organisations (UN, OSCE, OAU), or Member States acting as implementing agencies.

1.3. Current financial framework

The appropriations in the EC budget dedicated to CFSP are part of the heading for external actions (Heading 4) of the financial perspectives laid down in the IIA, the ceiling of which is set by the current financial perspectives that were decided at Berlin in 1999 and that will run until 2006.

The budgetary situation of the past three years related to the appropriations in the EC budget dedicated to CFSP can be summed up as in the following table:

	2000	2001	2002	2003
Budget proposed by the Commission	47	36	35	40
Agreed budget	47	36	30	Still under discussion
Committed	33,37	34,3	30*	
%	71%	95%	100%*	

* estimated amounts

In earlier years the CFSP budget was very difficult to be used effectively due to the fact that it was new and unexplored. In 1999 there has been a shortage and an appeal was made to the Reserve budget line. After the approval of the 1999 IIA, a more structured budget was created. In 2000 the budget was increased, and at the same time de-mining and election monitoring actions were funded under Heading 4 on the basis of new Council Regulations². Since, in addition, project identification and preparation were not yet up to speed, there was a considerable underspending in 2000. For 2001 the budget was cut down.

¹ See Art. 274 of the EC-Treaty as well as the Judgement of the Court of 12 May 1998, C-106/96, United Kingdom of Great Britain and Northern Ireland v Commission of the European Communities, *ECR [1998] Page I-02729*.

² Namely : i) Council regulations (EC) No. 1724/2001 and No. 1725/2001 on action against Antipersonnel Landmines; ii) Council Regulations (EC) No. 975/1999 and No. 976/1999 contributing to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries, the later two covering election monitoring

2. Flexibility in financing CFSP – access to additional funding

2.1. Challenges to the CFSP budget under the current financial perspective

Since the European Council of Nice (December 2000), the focus turned to crisis management and a new interest for the CFSP budget can be observed, in particular for the part not already covered by the Community instruments. The larger ambitions have however not been matched by increased funding for the relevant budget lines. This can be resolved through increased funding for both the CFSP and the other budget lines in heading 4.

Commission experience proves that it is possible, within the EC budget under the established institutional framework and drawing on existing management structures, to substantially increase budgetary flexibility to deal with urgent crisis management operations. Recourse to the current emergency reserve within the EC-budget already permits the release of additional credits (within the overall existing ceilings agreed at Berlin) for external action in unforeseen and exceptional crisis situations. The preparation of the European Union Interim Mission in Bosnia-Herzegovina (EUIM), devised in order to take over the UN led Interim Police Task Force (IPTF) in case the mandate for the latter mission would not be extended by the Security Council, created this new opportunity to increase budgetary flexibility for crisis management operations. The solution that was agreed for this case by both the Council and the EP in July 2002 was to use part of the emergency reserve (213 € Mio in 2002) to cover unforeseen budget needs. This possibility has now been agreed by the budgetary authority as a possibility for future crisis management operations. In the case of EUIM there was in the end no need to have recourse to the Emergency Reserve, since the Security Council extended the mandate until the end of this year. This mechanism could however be used to cover any possible financing needs under the current Financial Perspectives.

In other words, any future civilian crisis management operation of a similar magnitude as EUPM could either be accommodated under the annual CFSP budget (which foresees a gradual increasing amount, stabilising at 55 Mio € in 2005 and 2006 as foreseen in the Commission's financial programming 2003-2006 regarding the financial perspective headings 3 and 4) or be addressed under the Emergency Reserve.

2.2. Challenges to ensure Flexibility under the next financial perspectives

The next financial perspectives, which run from 2007 onwards, could provide for increased spending for CFSP actions. Likewise, the next financial perspectives could address the permanent scarcity of financial resources available under the whole heading for external actions (Heading 4), by foreseeing recourse to other tools, e.g. a specific flexibility instrument for civilian crisis management³.

³ See Communication of 28 November 2001 (COM(2001) 647).

2.3. ‘Flexibility’ for civilian crisis management operations outside the regular EC budget?

The present budgetary constraints on CFSP expenditure might also be eased by taking recourse to the fallback option provided for in Article 28 of the EU Treaty to finance actions outside the EC budget, i.e. through the creation of an ad-hoc fund. The Treaty provides that if the Union decide to set up such a fund, Member States shall contribute on the basis of the GDP key, but that it is possible to decide differently by a unanimous decision of the Council. Whilst the situation is different for defence or purely military expenditure, financing civilian CFSP operations in crises through a new ad-hoc fund raises many questions³:

- First and foremost it would increase the risks of divisions between first and second pillar activities and so threaten to undermine the consistency and coherence of the EU’s external activities, a key objective of the present Treaties (see Article 3 of the EU Treaty) and of the Convention.
- Secondly, it could lead to a duplication of what is already being done under the Community budget to finance crisis management, thereby blurring responsibilities and making the system less transparent.
- Thirdly, appropriate mechanisms would have to be created in order to ensure the accountability and control in the management of such a fund. Given the small volume of funding to be handled, it would be difficult to achieve cost-effectiveness in the administrative structures required to cope with these tasks.

Moreover, the creation of an ad hoc fund is no alternative for the need to raise more money for crisis management operations. The extra money, if necessary, will have to be raised anyway by the Member States, the only question is whether it should be managed in accordance with established Community rules, or through ad hoc funds.

In sum, the creation of ad-hoc funds for civilian crisis management operations risks generating inefficiency and inconsistency.

3. Outlook

Should substantially new tasks in the area of crisis management and conflict prevention be undertaken by the Union in the future, the CFSP budget would have to be increased accordingly. The resources for this could be mobilised by creating a larger reserve, be it in the form of an earmarked emergency reserve or in the form of a new flexibility instrument, an instrument that could be created without Treaty change³.