Negotiation boxes and blocks: Crafting a deal on the EU Budget and Cohesion policy

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Preface

This paper was originally prepared by the European Policies Research Centre (EPRC) under the aegis of EoRPA (European Regional Policy Research Consortium), which is a grouping of national government authorities from countries across Europe. The paper was originally issued as EoRPA Report 12/4 in the EoRPA series of reports. The Consortium provides sponsorship for EPRC to undertake regular monitoring and comparative analysis of the regional policies of European countries and the inter-relationships with EU Cohesion and Competition policies. Over the past year, EoRPA members have comprised the following partners:

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- Staatssekretariat für Wirtschaft (SECO, State Secretariat for Economic Affairs), Bern

United Kingdom
- Department for Business, Innovation and Skills, London
- The Scottish Government, Enterprise, Transport and Lifelong Learning Department, Glasgow

The research for this paper was undertaken by EPRC in consultation with EoRPA partners. It involved a programme of desk research and fieldwork visits among national and regional authorities in sponsoring countries during the first half of 2012. The EoRPA research programme is coordinated by Professor John Bachtler, Fiona Wishlade, Dr Sara Davies and Stefan Kah.

The report was drafted by an EPRC team comprising Carlos Mendez, Fiona Wishlade and John Bachtler. The report draws on country-specific research contributed by the following EPRC researchers:

Austria:	Stefan Kah	Netherlands:	Prof John Bachtler Dr Arno Van der Zwet
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Disclaimer

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EXECUTIVE SUMMARY

This aim of this paper is to provide a review of the formal negotiations on the EU budget and Cohesion policy, following the publication of the Commission's reform proposals in 2011. The scene is set with a brief overview of the on-going crisis in the EU, which has provided a very challenging context for budgetary and policy reform. The progress achieved in the budgetary negotiations on the Multi-annual Financial Framework (MFF) is then examined, before an analysis of the implications for national and regional eligibility and financial allocations under EU Cohesion policy using the latest available data and taking into account changes introduced in the Presidencies' negotiation boxes. The Council negotiations on the Cohesion policy regulations are then reviewed highlighting the main amendments proposed by the Member States to each of the main negotiation blocks. The paper concludes with issues and questions.

Context

The context for reform has been extremely difficult due to a renewed phase of crisis in the EU amidst a slowdown in growth, a questioning of fiscal austerity in many Member States, the contagion of the sovereign-debt and banking crisis, and a slow and incomplete response to the institutional design weaknesses of the Euro. The on-going need for bailouts to the troubled Eurozone economies and associated calls for a pooling of sovereign debt at EU level has severely tested the solidarity between Member States and made future EU spending commitments highly contentious.

Budget negotiations

Progress on the negotiation of the MFF has been slower than planned and it is highly unlikely that a deal will be reached by the December 2012 deadline. Views are sharply divided across Member States and EU institutions on the headline spending figures for the 2014-2020 MFF. Nevertheless, the climate of fiscal austerity and the demands of the net payers suggest that that a Council compromise will necessitate a reduction in the budget proposed by the Commission which should be borne by cuts across all policy headings. As the second biggest spending heading in the MFF, Cohesion policy is a prime target for cutbacks despite the resistance of the so-called 'Friends of Cohesion' coalition.

Cohesion policy eligibility and allocations

Given the universal support for concentration of funding on less-developed countries and regions, the downward pressure on the Cohesion policy budget is most likely to affect the new Transition regions category - which a number of Member States oppose - and the More-

developed regions. However, major cutbacks to the allocations of these regions may in the longer-term reduce the support for the all-region approach reducing the commitment to a strong, well-funded Cohesion policy. Other controversial negotiation issues with important implications for the flow of funds to particular countries and regions relate to the weight placed on the national prosperity coefficient for the Less-Developed Regions category or to the unemployment premium for all regions; the form and level of 'safety-nets' to moderate reductions in funding to countries and regions relative to the previous period; the fairness of the 'absorption cap' linked to levels of GDP, especially for those countries that would be financially disadvantaged due to low growth in recent years; and how much special treatment should be given to countries and regions with specific territorial challenges.

Cohesion policy regulatory negotiations

The legislative development of the Regulations has reached an advanced stage during 2012. Partial agreements were reached on key negotiation blocks under the Danish Presidency and the outstanding blocks and issues are to be addressed under the Cypriot Presidency. The general principles and priorities of the Commission's reform proposals have remained intact during the Council negotiations. Nevertheless, some significant amendments have been made in a number of key areas with a view to providing more flexibility to Member States and arguably leading to a dilution of the Commission's proposals. This applies in particular to thematic concentration and to the new performance framework.

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1. INTRODUCTION

Intensive negotiations on the EU's budget and Cohesion policy for 2014-2020 have been held throughout 2012 against the backcloth of a renewed phase of crisis in the European Union. This has provided an extremely challenging context for budgetary and policy reform throwing into question the norm of solidarity that underpins EU integration and making the distribution of costs and benefits highly contentious and politically divisive. The Eurozone problem remains unresolved - despite the agreement over short-term bailouts to troubled economies, moves towards a banking Union and discussions about longer-term solutions to the structural design flaws of the system - and has hindered progress on the EU budget negotiations. The European Council President Herman Van Rompuy has been forced to convene an unforeseen, special summit in November 2012 to facilitate the budgetary negotiations, although achieving a deal before the end of the year seems highly unlikely.

The development of successive negotiation boxes under the Danish and Cypriot Presidencies and associated Council debates show that major disagreements remain on the overall size of the MFF and the balance between policy areas. A group of net contributors is seeking major cuts to the Commission's proposals, while another group of countries wants to maintain EU spending particularly on Cohesion policy. There are also differences of opinion about the distribution of resources within Cohesion policy, particularly on the provisions for the new Transition category of regions, the absorption cap and safety-nets. The absence of a political agreement on these important financial issues means that the preparations for the next round of Cohesion policy programmes are in a state of uncertainty.

In parallel with the budgetary negotiations, the Structural Actions Working Group has been negotiating the content of the future Regulations for EU Cohesion policy. While less visible and contentious than the budget negotiations, it is evident that the Member States are seeking to make significant changes to the Commission's draft Regulations particularly with respect to the role of the Common Strategic Framework and Partnership Agreements, the level of thematic concentration on Europe 2020 objectives, the provisions on the new performance framework and the territorial instruments. Such revisions are giving rise to concern that the coherence of the overall package may be diluted.

The aim of this paper is to provide a review and assessment of the EU Cohesion policy reform negotiations over the past year. It begins by reviewing the context for reform with respect to the renewed phase of crisis in the Eurozone and the associated policy responses. The next section charts the progress achieved in the negotiations on the Multi-annual Financial Framework under the successive Polish, Danish and Cypriot Presidencies. An assessment of the implications for eligibility and financial allocations under the Structural and Cohesion Funds is taken up in the next section based on the latest eligibility data. The final section reviews the parallel negotiations under way on the content of the new Council Regulations distinguishing between key thematic blocks. Finally, the paper presents some conclusions and issues for discussion.

2. A CHALLENGING CONTEXT FOR EU POLICY REFORM

The context for EU budgetary and policy reform has been dominated by a renewed phase of crisis since the second half of 2011 amidst a marked slowdown in economic growth across the EU and rising unemployment; the intensification and contagion of the sovereign-debt and banking crisis; a questioning of the fiscal austerity programme to which EU leaders and institutions have been committed since 2009; and a mix of short- and long-term policy responses to stabilise the Euro and lay the ground for a more robust institutional architecture for EMU.

2.1 A renewed phase of crisis

Economic growth prospects across the EU have sharply deteriorated in the latter half of 2011 following the intensification of the Eurozone crisis and a deteriorating global economic outlook. According to the European Commission's spring forecasts, the EU economy contracted in the fourth quarter of 2011 and was predicted to enter into recession in the first quarter of 2012.[1] Growth projections were substantially revised downward for 2012 and, to a lesser extent, for 2013 when a mild recovery is expected. The extent of the downturn has been more acute in several countries. Greece entered its fifth year of recession in 2011, with its highest year-on-year contraction in output (of 6.8 percent) since the crisis began. Following positive growth in 2010, both Portugal and Slovenia slid back into recession throughout the whole of 2011, while Spain witnessed a second consecutive quarter of falling output in March 2012 alongside a rise in unemployment to an EU high of around 25 percent (over 50 percent for youths under the age of 25). A majority of EU Member States are expected to move into recession during 2012, and unemployment has been gradually rising.

Underpinning the slowdown was renewed uncertainty about fiscal developments in the EU. This included a request for a bailout by Portugal in mid-2011, the successive problems in agreeing the release of funds under Greece's bail-out during 2011 and 2012, and contagion to other economies, notably Spain and Italy. The fragile state of the banking sector accentuated these pressures increasing the strain on sovereign-bond yields of several Member States and creating challenges in meeting fiscal consolidation targets.

In the face of this worsening economic and fiscal outlook, backlashes against austerity programmes have fuelled anti-EU sentiment, playing a decisive role in several national elections and domestic politics more generally. This is most evident in Greece where there have been regular street protests, disagreements between rival parties about EU bailout terms, and a rapid rise in support for the Coalition of the Radical Left (*Syriza*) party in the May 2012 elections, which had pledged to cancel the bail-out memorandum fuelling speculation about a Greek exit from the Euro. Due to the inability to form a stable government, a second election a month later was held amidst intense political scrutiny and pressure from EU elites, leading to the centre-right New Democracy party forging a coalition government on a more pro-bailout platform.

Early elections were also forced by the crisis in Spain leading to a major defeat for the ruling socialist party and the election of Mariano Rajoy's right-wing People's Party in November 2011.

[1] European Commission (2012) European Economic Forecast: Spring 2012, *European Economy* 1: 2012 (provisional version), DG Economic and Financial Affairs, European Commission, Brussels.

Three rounds of spending cuts and tax rises have led to unprecedented level of civil unrest and strikes across the country, particularly given the acute level of unemployment, and to political disagreements between the central government and regions about the sharing of deficit reduction efforts.

The questioning of the policy responses to the crisis has not been unique to Southern Europe. In France, Sarkozy lost the May 2012 Presidential elections to François Hollande - the first Socialist President since François Mitterand - standing on an anti-austerity platform. Controversially, Hollande campaigned to reopen the EU's Fiscal Compact and focus on efforts to stimulate growth, clashing with Chancellor Angela Merkel's emphasis on budget austerity. In the Netherlands, Prime Minister Mark Rutte's government fell in April 2012 after the Party for Freedom refused to back the government's austerity measures. The elections in September were expected to lead to a swing of support to the Socialist Party, which opposed the government's austerity policies and the Eurozone rescue measures for the troubled periphery economies. However, rather than punishing Mr Rutte, the Liberal party prime minister was re-elected on September 2012.

Political divisions between northern and southern Eurozone countries have intensified, with both sides blaming each other for the lack of agreement on the appropriate response to the problems of the Eurozone. Finland in particular has taken a strict stance on Eurozone bailouts, first seeking collateral from Greece and subsequently from Spain. Germany remains committed to strict conditionalities and deficit-reductions strategies in countries receiving assistance. Yet, the implementation of the new bailout fund (the European Stability Mechanism) was delayed until the German constitutional court approval in September 2012. There are also calls by some German politicians to require a referendum before granting any further bail-outs.

The troubled economies of the southern periphery, meanwhile, are seeking more flexibility on fiscal consolidation plans to counter the deteriorating economic outlook. More radical proposals to reduce sovereign debt pressures include the empowerment of the European Central Bank to directly intervene in secondary debt markets, where government bonds are traded; or for the creation of Euro bonds to pool risk among all Eurozone members. Political disputes and brinkmanship between national and EU leaders about the terms, language and gains from Eurozone crisis management responses have become a daily part of the media coverage on the EU.

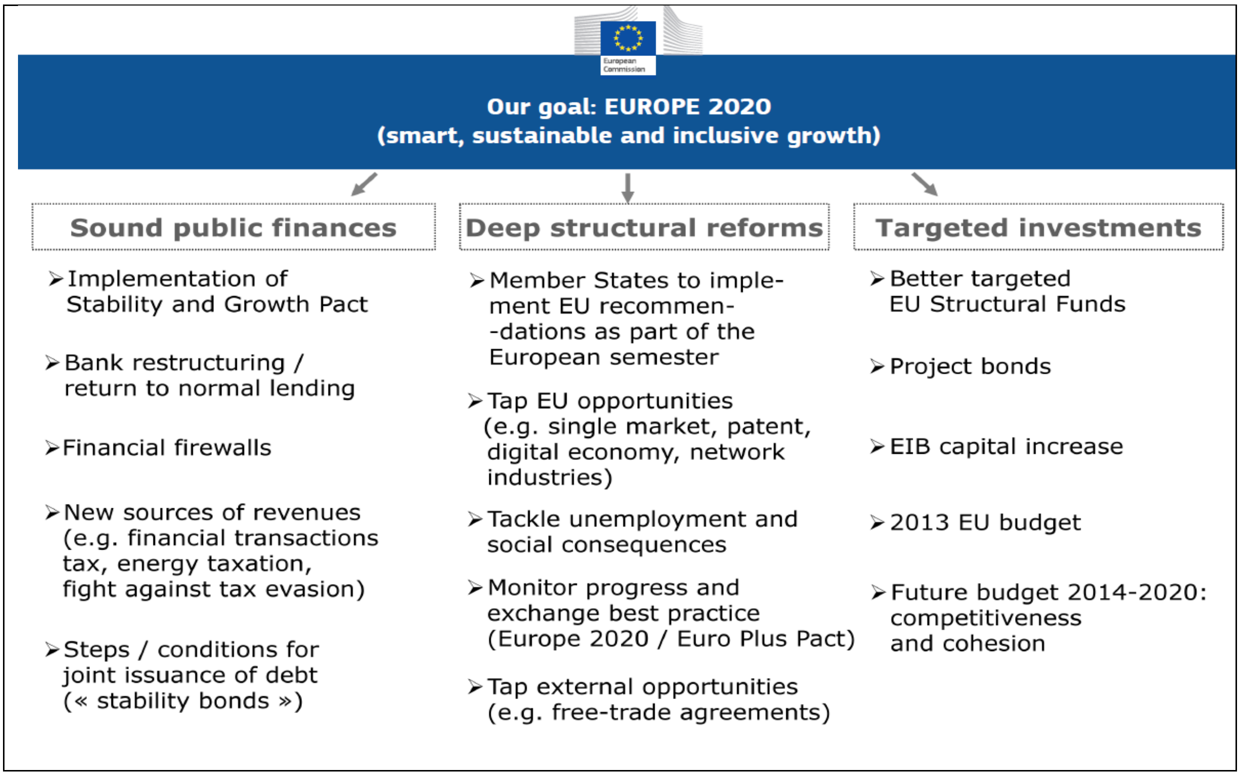
The political and economic difficulties in Europe have increased popular support for anti-EU parties in some countries. The increasingly sceptical approach to EU relations in the United Kingdom is particularly noteworthy. Prime Minister David Cameron's response has been to commit to a renegotiation of the UK's membership terms or potentially to hold a referendum on remaining a member of the EU. A policy review has been launched to examine which EU laws and policies could be repatriated.

2.2 A reactive and slow policy response

The policy response of the EU has been characterised as reactive and slow, as it was when the crisis first erupted in 2007. As noted, a defining feature of European debate in 2012 has been a shift in the political discourse to emphasise growth as a complement to austerity. Yet, the main policy prescriptions from EU institutions have remained firmly centred on fiscal consolidation, structural reforms and some minor re-targeting of existing investments, rather than a loosening of fiscal

policy or new stimulus packages (Figure 1). A fundamental reshaping of the institutional architecture for EMU, widely viewed as necessary to save the breaking up of the Euro, remains distant. However, a commitment to a banking union, a vital first step, has gained popularity and support from EU leaders.

Figure 1: The EU policy response to the deepening crisis



Source: J.M Barroso contribution to the informal meeting of the European Council, 23 May 2012

In the latter half of 2011, the key policy response to the governance weaknesses of the Eurozone was the so-called ‘six-pack’ of regulations, which amended and strengthened the Stability and Growth Pact, introduced a new Excessive Imbalances Procedure and set out new obligations for Member States’ national budgetary frameworks. Before the end of 2011, a further three measures were tabled by the Commission:

- the 2012 Annual Growth Survey, the starting point for the second ‘European semester’ under the Europe 2020 strategy setting out the economic priorities for the coming year;[2]
- two Regulations to tighten economic and budgetary surveillance in the Eurozone;[3] and

[2] European Commission (2011) *Annual Growth Survey 2012*, Commission Communication, COM(2011) 815 final, 23.11.11, Brussels.

[3] European Commission (2011) Proposal for a Regulation on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area, COM(2011) 821 final, 23.11.11, Brussels; European Commission (2011) Proposal for a Regulation on the strengthening of economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability in the euro area, COM(2011)819 final, 23.11.2011, Brussels.

- a Green Paper on so-called Stability Bonds setting out options for joint issuance of debt in the Eurozone.[4]

The Annual Growth survey underlined the limited room available for fiscal stimulus and called on the Member States to reprioritise available resources under the Structural Funds to boost growth and competitiveness, particularly on schemes to support apprenticeships for young people and energy efficiency investment programmes for households and firms. Subsequently, a 'Youth Opportunities Initiative' was tabled in December 2011 in response to the growing level of youth unemployment across many countries. It called on Member States to develop and implement comprehensive initiatives for youth employment, education and skills; to develop youth jobs plans within their national reform programmes; and proposed a pilot action to help the eight Member States with the highest levels of youth unemployment to re-allocate Structural Funds to tackle youth unemployment (Table 1).

Table 1: Main results of the actions teams (as at May 2012*)

	EU funds still to be allocated end 2011 (in € Mio, rounded estimates)	Funds allocated through the work of the action teams (Mio)	Number of young people likely to benefit (rounded estimates)	Number of SME's likely to benefit (rounded estimates)
Total for the eight 'pilots'	29,800	Already 7,300	Over 460,000	Over 56,000
EL	4,300	1,837	278,000	12,400
ES	10,700	1,100	To be determined	7,700
IE	2	35	Up to 10,200	-
IT	8,000	3,600	128,300	28,000
LT	1,050	Up to 50	18,000	200
LV	450	67	13,600	1,400
PT	3,000	Already 330 (pending decision)	To be determined (pending decision)	4,500
SK	2,300	295 (EU + State budget)	15,000	2,000

* The figures are tentative and provisional; several decisions are still pending and the likely impacts of the various measures will require a more precise evaluation. For IE, since it had no unallocated Structural Funds in the current programming period, the fact that the amount re-allocated is higher than the amount initially estimated to be available is explained by the re-prioritisation of certain activities.

Source: European Commission (2012) Tackling Youth Unemployment: Using EU Structural Funds to Help Young People (Provisional Outcome as of 21 May 2012), Brussels.

A more contentious development was the proposal for a Fiscal Treaty reform. The aim was mainly to require Eurozone members to introduce a national requirement to have national budgets that are in balance or in surplus and to provide the European Court of Justice with the power to fine a country if this was not done. Controversially, Mr Cameron vetoed the Treaty reform in the absence of agreement over protection for UK financial services. This led the other Member States (except

[4] European Commission (2011) Green Paper on the Feasibility of introducing Stability Bonds, COM(2011) 818 final, 23.11.2011, Brussels.

for United Kingdom and Czech Republic) to agree an intergovernmental Fiscal Compact outside the Treaty on 2 March 2012 instead.

Under pressure to do more to stimulate growth and to stabilise the Euro area, the next major summit of 28-29 June 2012 led EU leaders to agree on a number of short-term measures along with a commitment to develop a longer-term vision for EMU by the end of 2012 on the basis of a report by Mr Van Rompuy.[5] The Council conclusions included two important decisions:[6]

- the establishment of a single banking supervisory mechanism run by the ECB by the end of 2012, seen as a first step towards a European banking union; and
- to allow the European Stability Mechanism to lend funds directly to banks, particularly to relieve the increasing borrowing costs in Italy and Spain.[7]

A 'Compact for Growth and Jobs' was annexed to the conclusions. Initially spearheaded by Mr Hollande as part of his anti-austerity electoral campaign, the compact commits the EU to mobilise €120 billion for 'fast-acting growth measures', though based mainly on existing plans and funding:

- increased European Investment Bank capital of €10 billion by the end of 2012 to increase its overall lending capacity by €60 billion;
- the launch of Project Bonds on a pilot basis bringing additional investments of €4.5 billion for projects in transport, energy and broadband infrastructure;
- an option for Member States to use unspent Structural Funds of €55 billion to part guarantee EIB loans for knowledge and skills, resource efficiency, strategic infrastructure and access to finance for SMEs; and
- development of the European Investment Fund venture capital activity, in liaison with existing national structures.

The Compact also reiterated Member State commitments to Europe 2020 strategy targets and the Stability and Growth Pact as well as asking them to tackle unemployment and reform their public sectors. EU-level regulatory commitments included deepening the single market, reducing burden for businesses, completing the internal energy market and supporting research.

3. NEGOTIATING THE 2014-2020 EU BUDGET

The renewed phase of crisis in Europe has severely tested the solidarity among European countries and increased the sensitivity of national politicians and electorates to the distribution of costs and benefits within the EU. This has provided a challenging context for negotiating the EU Budget for 2014-2020, although substantial progress has been made. Launched at the end of June 2011 with

[5] European Council (2012) *Towards a Genuine Economic and Monetary Union*, Report by President of the European Council EUCO 120/12, 26 June 2012, Brussels.

[6] Council of the European Union (2012) *Council Conclusions*, EUCO 76/12, European Council, 28/29 June 2012, Brussels.

[7] The Italian Prime Minister Monti made this measure a pre-condition for agreeing to the Compact.

the publication of the Commission's 'Budget 2020' proposals, EU institutions have been engaged in intensive negotiations on the multi-annual financial framework and on 50 pieces of associated sectoral legislation. The preparatory work was finalised under the Polish and Danish Presidencies leaving the negotiations on figures to the Cypriot Presidency during the latter half of 2012. At present, it seems likely that a political agreement will not be achieved till 2013.

3.1 Polish Presidency of the Council of the EU: July-December 2011

During what he Council referred to as a 'clarification phase', the role of the Polish Presidency was largely of a preparatory nature, focused on clarifying technical issues of the Commission's MFF proposals and achieving a better understanding of Member State positions. The first informal exchange of views took place in late July, which allowed for a general overview to be presented by the Commission. Following the summer, the General Affairs Council held an exchange of views on the duration, structure and flexibility of the MFF in September, before COREPER discussions on several headings throughout October: Heading 1 'Smart and Inclusive Growth' (except Cohesion policy and the Connecting Europe Facility), Heading 3 'Security and Citizenship', Heading 4 'Global Europe' and Heading 5 'Administration'. In mid-November, the General Affairs Council held an orientation debate on the big budget items: Cohesion policy and the CAP along with the related Connecting Europe Facility (part of which is to be funded by the Cohesion Fund) and Common Fisheries Policy. The first COREPER discussions on own resources were held on 23 November. Throughout this period, the 'Friends of the Presidency' working group held weekly meetings to clarify technical issues in the Commission proposals.

A progress report published in December reviewed the work of the Presidency and developing positions.[8] First, views were clearly divided on the overall size of the budget. Several net-payer Member States called for a reduction in the Commission's proposals[9], justified on the basis of the crisis and the associated fiscal consolidation efforts being made at home. The German Finance Minister was reported to have been looking for €100-120 billion reduction in the Commission's proposals. By contrast, an opposing camp of net beneficiaries offered support for the Commission's proposals, justified by the need to provide the 'necessary means' to deliver the agreed EU goals for 2014-2020 and to provide investment support for exiting the crisis.

Second, there was broad consensus on the proposed duration of the MFF and the need for flexibility, but mixed views on the budget's structure. In particular, there was opposition to the merger of the current sub-headings 1a and 1b into a single Heading 1 (Smart and Inclusive Growth) and the creation of a sub-ceiling for expenditure on Cohesion because of concerns of a loss of visibility or that the level of Cohesion expenditure would not be guaranteed throughout the period.

Third, for each policy area, views were divided on a wide range of proposals relating to allocation levels, the criteria and modalities for allocating funding, eligibility issues and the financial priority given to particular themes.

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[8] Council of the European Union (2011) *Multiannual Financial Framework (2014-2020) - Report on progress of work within the Council in the second semester* 201117448/1/11 REV 1, 1 December 2012, Brussels.

[9] In a non-paper signed by Austria, Germany, Finland, France, Italy, the Netherlands, Sweden and the United Kingdom.

Lastly, on the income side of the budget a majority of countries agreed with the general principles of the new proposed own resources, the elimination of the current VAT-based own resource and the termination of correction mechanisms. Nevertheless, Member States were divided about the proposed methodology of the new VAT-based own resource and traditional own resources; scepticism was expressed about a financial transaction tax; and the problem of budgetary imbalances on the income and expenditure sides remained contentious for some Member States.

3.2 Danish Presidency of the Council of the EU: January-June 2012

Moving from the 'clarification phase' into the 'negotiating phase', the objective of the Danish Presidency was to 'to produce a solid basis for a substantial discussion on the future MFF at the European Council meeting in June 2012. The discussions at Council level should therefore serve to narrow gaps between delegations' positions on the key issues and, where possible, reconcile them.'[10] Following the approach of the previous MFF negotiations in 2005/6, the Presidency focused on developing the first 'Negotiating Box', a document setting out the allocations, methodological provisions and options on all elements of the MFF. The document has an evolving character incorporating the views of Member States as the negotiations progress, and it provides the basis for an agreement on the MFF at the European Council. Headline figures or indicative ranges for the various headings were not specified in the Negotiating Box under the Danish Presidency. The focus was rather on developing the key substantive characteristics of each heading and some options, leaving the more contentious negotiations on figures to the final stages under the Cypriot Presidency. To facilitate a constructive process, a guiding principle stated at the outset on all negotiating boxes is that 'nothing is agreed until everything is agreed'.

The political direction was set at General Affairs Council in late January 2012, which discussed the main priorities for the Danish Presidency. This was followed by GAC orientation debates in March and April, before turning to the Negotiating Box. The preparatory work was undertaken in COREPER with support from the Friends of the Presidency working group and a parallel own-resources working group. In particular, the outstanding technical issues that had not been reviewed under the Polish EU Presidency were clarified in January, allowing delegations to exchange views on the basis of questionnaires provided by the Presidency during February. Wide differences of opinion remained on many issues.[11] Under Cohesion Policy, for instance, the key points of contention related to the financing line in which it should be included, the modalities of macroeconomic conditionality and the performance reserve, co-financing and pre-financing rates, the scope of transition regions, allocation criteria and the transfer of funds from Cohesion policy to the Connecting Europe Facility.

Discussions in March provided the basis for the development of the structure of the Negotiating Box, followed by the individual sections on spending headings and on own resources throughout April and May. The first full version of the Negotiating Box containing all sections was tabled on 21

[10] Council of the European Union (2012) *Multiannual Financial Framework (2014-2020) - Organisation of work within the Council in the first semester 2012*, 5032//12, 6 January 2012, Brussels.

[11] Council of the European Union (2012*) Multiannual Financial Framework (2014-2020) - State of play of work undertaken in the Friends of the Presidency Group (MFF) in February 2012*, 7038/12, 5 March 2012, Brussels.

May 2012. Some technical adjustments were introduced in a revised version four days later,[12] providing the basis for the discussions held at the General Affairs Council on 29 May. As noted, financial allocations to specific headings or overall were not specified in the boxes, not least because the Commission had not yet updated its original proposals to take into account the Spring macroeconomic forecast, new regional economic performance data, and the cost of Croatia's accession. This did not prevent the rehearsal of well-known disagreements about the overall size of the future budget.

As had occurred under the Polish Presidency, a non-paper was circulated at the GAC meeting of Ministers by seven Member States (Austria, Czech Republic, Germany, Finland, Netherlands, Sweden and the United Kingdom) stating that 'the Commission's proposal is significantly in excess of what is needed for a stabilisation of the European budget'. France was not a signatory as it was still developing its formal position, although it did sign a 'Friends of Better Spending' non-paper (along with Austria, Germany, Finland, Italy, Netherlands, Sweden) a few days prior to the GAC meeting calling for a more effective use of Cohesion policy funds (Box 1). In response, the so-called 'Friends of Cohesion' group circulated a document defending Cohesion policy as 'a major tool for investment, growth and job creation' and stating that 'better spending' should not imply 'further cuts in the cohesion envelope'.[13]

Box 1: Friends of Better Spending Non-Paper (AT, DE, FI, FR, IT, NL, SE), 25 May 2012

- **Increasing the impact on growth and employment.** CSF Funds have to be used more effectively in the next financial framework. We should therefore streamline these funds to the EU 2020 objectives. This includes a clear connection between funding and the implementation of the relevant country-specific recommendations and a higher growth and employment orientation under the different objectives.
- **Enforcing macroeconomic conditionalities.** All strands of fiscal, economic and structural policy must be harmonised, including the relevant country-specific recommendations in the partnership agreements as well as the possibility of suspending commitments or payments, especially where Member States don't take measures to correct their excessive deficits or don't take action to implement their adjustment programmes or conditionalities attached to an ESM financial assistance.
- **Introducing a Common Strategic Framework.** Adopted by the Council and EP, the CSF must ensure that funding from all five Structural Funds is coherent and complementary (the same objectives should be pursued on the basis of the same set of rules for easier implementation and streamlining).
- **Reviewing process.** On the basis of Commission reports, the Spring Council should regularly discuss the progress and success of the funding. Only if we detect in time where implementation is inadequate or goals are missed, will we be able to redirect funding.
- **Performance Reserve.** Support for the idea of a Performance Reserve, which could be voluntary. It should be used to create a competition situation (at Member State level, and at European level) to provide an incentive for good performance.
- **National co-Financing.** The disciplinary effect must not be neglected when designing future EU-national cooperation. The temporary increase in co–financing rates for Member States in financial difficulties should end with the expiry of the respective regulation by the end of 2013.
- **Making more use of EIB Expertise.** Suggest consideration of widening the use of EIB expertise in identifying and preparing projects in order to raise the quality of spending and ensure that only economically sound projects will be supported.

[12] Council of the European Union (2012) Multiannual Financial Framework (2014-2020) - Negotiating Box, 10063/12, 21 May 2012, Brussels; Council of the European Union (2012) Multiannual Financial Framework (2014-2020) - Negotiating Box, 10063/1/12 REV 1, 24 May 2012, Brussels.

[13] The signatories were Bulgaria, Czech Republic, Cyprus, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain.

In the GAC Ministerial debate, two of the issues in the 'better spending' list raised particular opposition.

- First, a number of Member States expressed strong reservations against the proposed use of macro-economic conditionalities to sanction excessive deficits (Czech Republic, Greece, Slovenia, Spain, United Kingdom). Potential amendments to achieve agreement could include restricting sanctions to commitments (i.e. excluding payments) and the introduction of a capping rate (Czech Republic, Hungary, Portugal, Romania, Slovak Republic).

- Second, there was opposition to a reduction in the EU co-financing rate (from the current 85 percent) for less-developed Member States, particularly given the on-going effects of the crisis and associated fiscal consolidation efforts (Bulgaria, Hungary Lithuania, Portugal, Romania).

Other key issues relating to Cohesion policy concerned the following:

- Transition regions: some Member States were supportive of the new category of regions (e.g. Austria, Belgium) while others were firmly opposed (Netherlands, Portugal, Sweden);

- safety-nets: to minimise the scale of funding reductions were supported by some (Germany, Slovenia) and rejected by others (Austria, Poland, Sweden, Slovak Republic);

- updated data: the need to use the most recent to take account of crisis effects (Greece, Ireland, Spain);

- territorial disadvantages: opposition to a reduction in allocations to outermost regions (France, Portugal), sparsely populated areas (Finland, Sweden) and small island states (Cyprus, Malta);

- financial allocation criteria: should take into account innovation performance (Netherlands, Spain) and youth unemployment (Ireland), or be modified to increase the existing unemployment premium (Belgium, Italy, Spain);

- capping: Opposition to proposed capping of funding based on GDP levels, particularly where there has been a significant drop in GDP as a result of the crisis (Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania); and

- VAT eligibility: several CEE states called for VAT eligibility issues to be adequately addressed in negotiation box (Czech Republic, Croatia, Estonia, Hungary, Latvia, Slovak Republic).

On the other big spending item, the Common Agricultural Policy, the key negotiating fault-lines were similarly about the distribution of funding, both across Pillars and Member States:

- a gradual reduction in Pillar 1 support was welcomed by several Member States (Czech Republic, Netherlands, Sweden) and rejected by others (Austria, France, Spain, Ireland, Latvia);

- greater convergence of direct payments under Pillar I was called for by Bulgaria, Czech Republic, Estonia, Latvia, Malta, Portugal, Romania, Slovak Republic;

- Rural development allocations under Pillar 2 should be linked to past performance and allocations for the whole of the previous period (Austria, Bulgaria, Finland, Slovenia); and

- the capping of support for large farms was rejected by Slovak Republic and Romania.

An informal General Affairs Council held on 10-11 June examined some outstanding issues, particularly regarding the structure the MFF - namely, the establishment of two sub-Headings under Heading 1 and the appropriate place for instruments that were placed outside the MFF in the Commission's proposal. A further two revised Negotiating Boxes were then tabled in June for discussion at the General Affairs Council (on 26 June) in advance of the European Council summit (28-29 June).[14] In comparing the successive versions of the Negotiation Box to the Commission's original proposals, the main changes proposed to the structure of the MFF included:

- introducing separate sub-headings for competitiveness (1a) and cohesion (1b). Both ITER (International Thermonuclear Experimental Reactor) and GMES (Global Monitoring for Environment and Security) would be funded within the former sub-ceiling, instead of outside the MFF, as would the same Connecting Europe Facility instead of under the cohesion heading (CEF);

- creation of two sub-headings within Heading 1 instead of two sub-ceilings; and

- placing the crisis reserves for the agricultural sector, the Solidarity Fund (ESF) and the emergency reserve in Headings 2 (agriculture), 3 (security and citizenship) and 4 (foreign affairs) respectively, and terminating the European Globalisation Adjustment Fund (EGF).

Other notable elements included:

- the reference to setting figures both in current and in 2011 prices;

- provisions on unused commitments (the so-called RAL, '*reste a liquider*') to ensure a manageable level and profile;

- specifying fixed amounts of funding for the decommissioning of nuclear power plants in Bulgaria, Lithuania and Slovakia; and

- proposals to decide whether VAT should be eligible for support from the five CSF Funds (ERDF, ESF, CF, EAFRD, EMFF)

The Ministerial debate at the GAC revealed that some progress had been made on the structure of the budget.[15] In particular, there was 'broad consensus' on keeping separate sub-headings for

[14] Council of the European Union (2012) *Multiannual Financial Framework (2014-2020) - Negotiating Box*, 10753/12, 6 June 2012, Brussels; Council of the European Union (2012) *Multiannual Financial Framework (2014-2020) - Negotiating Box*, 11539/12, 19 June 2012, Brussels.

[15] Council of the European Union (2012) *3180th General Affairs Council Meeting*, 11690/12, 26 June 2012, Brussels.

'competitiveness for growth and jobs' (1a) and 'Economic, social and territorial cohesion' (1b). However, views were split on the Presidency proposal to include the ITER and GMES projects within (rather than outside) the MFF. A lack of consensus was also evident in the discussions on Cohesion policy, particularly regarding the special treatment of island regions, safety-net provisions and macro-economic conditionality. On the CAP, the most contentious issue remained the proposed timing and scope of convergence of direct aids under Pillar I. Very few interventions covered the revenue side of the MFF, although there were rifts between those opposed to the correction mechanisms and those in favour.

The European Council summit provided the first opportunity for heads of state to discuss the multi-annual financial framework in the round. However, with the renewed pressures of the Eurozone crisis and its contagion, the focus was mainly on preparing the ground for a more sustainable institutional design for EMU, particularly tighter supervision of Eurozone banks. The Council conclusions dedicated to the MFF merely provided an update of the negotiation process, welcoming the progress achieved under the Danish Presidency, noting that the Negotiating Box would be further developed by the Cypriot Presidency and reiterating the commitment to a deal by the end of 2012.[16]

3.3 Cypriot Presidency of the Council of the EU: July-December 2012

With a mandate to conclude the negotiations on the MFF, the key goal for the Cypriot Presidency was to move the debate on to figures. To clarify the negotiation priorities and red lines of each Member State, the Presidency began with a series of bilateral meetings between 10 and 19 July. A first GAC meeting of Ministers was held on 24 July, including a debate on the updated Commission proposal on the 2014-2020 MFF, which took into account the latest macroeconomic forecasts, new data on regional economic performance, and the cost of Croatia joining the EU.[17] The cost of Croatia's accession was relatively small, estimated to be €13.7 billion, with Cohesion policy accounting for €8.7bn. The overall ceiling for commitments was raised from €1,025bn in the initial Commission proposal to €1,033bn.

[16] Council of the European Union (2012) *Council Conclusions*, EUCO 76/12, European Council, 28/29 June 2012, Brussels.

[17] European Commission (2012) *Amended proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020*, COM(2012) 388 final, 6.7.2012, Brussels.

Table 2: Comparison of original and update MFF proposal (€m, 2011 prices)

Commitment appropriations		
	June 2011 proposal	July 2012 update
1. Smart & inclusive growth	490908	494763
2. Sustainable growth: natural resources	382927	386472
3. Security and Citizenship	18535	18809
4. Global Europe	70000	70000
5. Administration	62629	63165
Total commitments	**1025000**	**1033235**
Payment appropriations	**972198**	**987599**

Source: European Commission (2012) *Commission updates its Multiannual Financial Framework proposal with latest data*, Press Release IP/12/754, 6.7.2012, Brussels.

The main concerns expressed by Ministers at the GAC debate related to the overall size of the budget, the large-scale programmes and flexibility instruments to be included in or excluded from the MFF ceilings, macroeconomic conditionality under the Structural Funds, the reverse safety net requested by some net payers, the progressive reduction of direct payments under the Common Agricultural Policy for EU15 Member States.

The outcome of the bilateral and GAC meetings formed the basis of an 'Issues Paper', presented and discussed at the Informal Meeting of Ministers and Deputy Ministers for European Affairs on August 30 2012.[18] The Presidency paper summarised the state of progress in the negotiations in relation to the total level of the budget, the key headings and own resources, as follows.

PRESIDENCY ISSUES PAPER: EXPENDITURE SIDE

Total spending: The bilateral meetings confirmed that agreement cannot be achieved on the overall level proposed by the Commission, as updated on 6 July 2012. The total level of expenditure proposed by the Commission, including all elements inside and outside of the MFF would have to be adjusted downwards. All headings would need to be subject to reduction efforts, taking into account Member State priorities and concerns: the need for appropriate financing to fulfil Treaty objectives on EU policies; the contribution towards overall EU objectives; the level and balance of expenditure proposed by the Commission as compared to the current MFF; the relative size of the Headings; and the cost-effectiveness of different elements of headings, policies and instruments.

Competitiveness for growth and jobs (Sub-Heading 1a): The sub-heading has a high potential to contribute to the fulfilment of Europe 2020 objectives, but will have to contribute to the overall reduction effort. Whilst recognising the strategic importance of the Connecting Europe Facility (CEF), the telecommunications part has received less support by Member States than transport and energy. The size and relative weight given to the three strands of the CEF, as well as the scope of the proposed transfer of €10 billion from the Cohesion Fund, requires reconsideration. Efforts should be made to ensure broad access of participants from all Member States to the Horizon 2020 programme, without questioning the principle of excellence.

[18] Cyprus Presidency (2012) *Presidency Issues Paper - Multiannual Financial Framework 2014-2020*, Informal Meeting of Ministers and Secretaries of State for European Affairs, 30 August 2012, Nicosia: http://www.cy2012.eu/index.php/en/file/t4OXQzwQKPz2nxXo9+AUZw==

PRESIDENCY ISSUES PAPER: EXPENDITURE SIDE (continued)

Economic, social and territorial cohesion (Sub-Heading 1b): A downward adjustment on Cohesion policy funding should be targeted at the Transition and More-Developed Region categories rather than the Less-Developed Regions. An objective calculation methodology should be maintained while ensuring appropriate transitional arrangements and some provisions related to minimum and maximum size of allocations. Eligibility, scope and coverage, safety nets for regions and Member States need to be discussed further. More discussions are needed on macroeconomic conditionality, particularly regarding equal treatment of Member States, consistency with efforts to overcome the economic crisis, the situation of Member States with temporary budgetary difficulties, the application to commitments and/or payments, the degree of automaticity, and the ceiling on suspended amounts. Other financial issues which need more reflection are the de-commitment rules and pre-financing.

Sustainable growth (Heading 2): The division of views suggests that a contribution from the CAP to the overall reduction has to come from both Pillars but that further discussion is needed on the relative balance. While respecting the distinct objectives of the two Pillars, it is deemed appropriate to provide for more flexibility between them. The principle of a more equitable distribution of direct support is accepted, while further consideration is required on the ambition and speed of convergence as well as on the principle of degressivity. The majority of Member States consider that the distribution key for Rural Ddevelopment is a necessary part of the overall agreement on the MFF.

Other Headings – Security and citizenship (3), Global Europe (4) and Administration (5): would also have to contribute to reductions, taking into account the specific challenges to be addressed under each Heading.

On the revenue side of the MFF, a large majority of Member States were in favour of reform but more discussion was needed to get agreement on the following issues.

PRESIDENCY ISSUES PAPER: INCOME SIDE

Value Added Tax: The proposed abolition of the current VAT own resource and the Commission proposal on a new VAT own resource requires careful additional analysis in terms of its consequences and its relevance in terms of simplification, innovation, consistency with the Treaty and fairness.

Financial Transactions Tax: concerning the possible use of the proceeds of an FTT as own resources, the move towards enhanced cooperation would create a new situation requiring careful analysis, as set out in the paper recently submitted by the Commission.

Collection Costs: The Presidency committed itself to reflecting on a possible way forward, bearing in mind the rationale of the Commission proposal for its reduction as well as the importance some Member States attach to the maintenance of the current percentage.

Correction Mechanisms: The issue is highly contentious. Although many Member States support the abolition of all corrections, there are divergent views, including the position taken by a few Member States that, in the event that corrections remain in place, they are entitled to request a correction as well. The Presidency considers that the question of corrections is a key component of the final agreement and requires more reflection and work. Further assessment of the methodology to be used including the system of lump sums as suggested by the Commission is needed. Other elements and options which could contribute to the simplification and the rationalisation of the present system could be examined.

A new Negotiating Box was published by the Presidency on 18 September 2012, in advance of the General Affairs Council of 24 September.[19] In line with the Presidency Issues Paper, it was the first Negotiating Box to recognise explicitly the 'inevitable' need for a reduction in the total level of expenditure proposed by the Commission (including all elements inside and outside of the MFF) and for all headings, sub-headings and sub-ceiling to be subject to reduction efforts. However, the document still did not contain the numerical ranges for the overall budget, headings and policies. The main comments received from delegations at the GAC meeting were summarised in a Presidency press release.[20]

- **Total spending**: Some Member Sstates welcomed the Presidency intention to reduce the figures proposed by the Commission and insisted on the need for better spending. Others defended the Commission proposal, arguing that the MFF was a key investment tool for promoting growth and jobs, while agreeing with the importance of high-quality spending which is needed in all expenditure areas.

- **Spending in individual headings**: Some delegations insisted that cuts should be made to all individual headings. Others opposed cuts to Cohesion policy and/or the Common Agricultural Policy and some considered the amounts proposed for both to be a strict minimum.

- **Cohesion policy allocations**: some Member States criticised the removal from the Negotiating Box of the 'reverse safety net'. Others welcomed this modification, but voiced concern about a possible reduction of the maximum level of transfer ('capping rate') below 2.5 percent of GDP of each individual member state.

- **Common Agricultural Policy.** Under the Rural Sevelopment strand, some Member States insisted that the 'past performance principle' for the distribution of EU support should be understood as the share of funds allocated to a Member State for the entire 2007-2013 period, rather than only for the year 2013 as intended by the Commission. Under the direct support strand, some Member States opposed the reduction of the EU average of direct aids per hectare. Others supported it if this contributed to a higher convergence of direct aids between Member States, or subject to exceptional provisions for Member States whose level of direct aids is lower than the EU average.

- **Unused commitments** (*reste à liquider*, RAL): Some Member Sstates welcomed the Presidency's intention to include provisions in the Negotiating Box, while others considered RAL to be a normal feature of the EU budget procedure, and that it should be addressed in that framework.

[19] Council of the European Union (2012) *Multiannual Financial Framework (2014-2020) - Negotiating Box*, 13620/12, 18 September 2012, Brussels: http://register.consilium.europa.eu/pdf/en/12/st13/st13620.en12.pdf

[20] Council of the European Union (2012) *3187th General Affairs Council meeting*, Press Release 14070/12, 24 September 2012, Brussels.

- **Instruments inside/outside the MFF:** Some Member States expressed concern at the suggestion to put the Solidarity Fund (SF) and the European Globalisation Adjustment Fund (EGF) outside the MFF, rather than keeping the SF within the MFF's expenditure limits and discontinuing the EGF.

- **Own resources:** Several delegations stressed the importance of a simple, transparent and fair system. Some criticised the lack of revisions to the Negotiating Box on own resources, while others opposed any change to own resources. Some delegations supported the abolition of the current VAT-based own resource. Some were ready to examine this proposal, while others opposed it. The proposal for a new own resource based on a financial transaction tax was supported by some Member States and opposed by others. Some Member States insisted on keeping the system for collection of traditional own resources unchanged, including the retention of 25 percent of collection costs by Member States. Some countries favour abandoning all correction mechanisms. Others insisted on maintaining existing correction mechanisms or at least keeping a guarantee of the current amount of correction under a new mechanism.

The European Council meeting on 18-19 October was dedicated mainly to Eurozone crisis issues - an interim report on the future of EMU and banking supervision along with a review of the Compact for Growth and Jobs - rather than the MFF as originally planned. An important development was the proposal to establish an additional Eurozone budgetary instrument separate from the EU's Multi-annual Financial Framework to support moves towards an integrated budgetary framework.[21]

Owing to the set-back in the scheduling of the MFF negotiations, a special summit was convened by the European Council President Von Rompuy for 22-23 November 2012. Bilateral consultations by the President's cabinet were arranged in early November to discuss Member State positions on the basis of a newly revised Negotiating Box. Past precedent, the delay in the scheduling of the negotiations and the associated political turmoil surrounding the Eurozone suggest that reaching a deal on the budget is likely to extend well into 2013.

3.4 The European Parliament's position

The European Parliament has joint budgetary authority with the Council since the introduction of the Lisbon treaty in 2009. However, the Parliament's authority is limited to either consent or rejection - it cannot amend the amounts.

A first resolution on the MFF 2014-2020 was adopted by the Parliament on 8 June 2011, prior to the publications of the Commission's proposals. A year later, another resolution was adopted largely reiterating the key issues raised in the earlier resolution by calling for full involvement in the negotiations with the Council on all MFF-related aspects; greater financial flexibility within and across headings, as well as between financial years, to react to evolving circumstances and

[21] Council of the European Union (2012) Draft Conclusions, European Council (18-19 October 2012), 8 October 2012, Brussels, p9

priorities during the programme period; a new deal on own resources to end rebates and other correction mechanisms (Box 2).

The Parliament is expected to adopt an updated position on the MFF towards the end of October 2012.

Box 2: Key points in the EP resolution on the MFF 2014-202 of June 2012

1. EU budget represents a very strong tool to increase strategic investment with European added value and put the European economy back on track, generating growth and employment while aiming to foster cohesion. The EU budget needs to play a strategic role, in parallel with the budgetary consolidation measures currently imposed on national budgets;

2. The resolution of the special committee on the policy challenges and budgetary resources for a sustainable European Union after 2013 (SURE) of 8 June 2011 remains fully valid and is to be seen as the EP negotiating position; it will not be possible to meet the political goals of the Union without adequate financing from a robust EU budget;

3. EU budget should show an appropriate balance between revenue from genuine own resources and expenditure. Not prepared to give consent to the next MFF without political agreement on reform of the own-resources system, putting an end to existing rebates and other correction mechanisms; welcomes the Commission proposals on the reform of the own-resources system, including the proposals on a financial transaction tax (FTT) and a new EU VAT as own resources.

4. The MFF 2014-2020 must provide enhanced budgetary flexibility both within and across headings, as well as between financial years within the MFF, in order to ensure that budgetary resources can be appropriately aligned with evolving circumstances and priorities; all EU policies and programmes should be included within the MFF with appropriate funding;

5. Political positions agreed by the European Council should be negotiated between Parliament and the Council, before the Council formally submits its proposals with a view to obtaining Parliament's consent on the MFF regulation; the negotiations on the legislative proposals relating to the multiannual programmes will be pursued under the ordinary legislative procedure and will be finalised once an agreement on their financial envelopes is reached.

6. The goals and policies of the MFF should be agreed before figures are assigned to them. Parliament and the Council should hold fully fledged negotiations on all MFF-related aspects prior to assigning figures and making final adjustments to the entire MFF package.

Source: European Parliament (2012) *Resolution on the Multiannual Financial Framework and own resources*, P7_TA(2012)0245, 13 June 2012, Strasbourg.

4. COHESION POLICY 2014+: ELIGIBILITY AND ALLOCATIONS

A critical factor influencing Member State positions on the future EU budget and Cohesion policy is the issue of their eligibility under the different Cohesion policy objectives; this in turn determines the funding that will flow to different countries and regions. This section explores future eligibility and allocation scenarios under EU Cohesion policy on the basis of the latest statistical data.

The analysis takes as its starting point the Commission's budgetary proposals published in June 2011,[22] the draft Cohesion Policy Regulation issued in October 2011,[23] the last Negotiating Box (NB3) produced by the Danish Presidency[24] and the Commission's revised proposals for the Multiannual Financial Framework (MFF) published in July 2012.[25] Together, these documents provide broad indications on future coverage, budgetary allocations and distribution criteria under the Structural and Cohesion Funds. These are complemented by some unpublished information in the form of so-called 'fiches' - essentially working documents of the European Commission which explain some technical aspects of the Commission's approach to the MFF.[26] As noted earlier, the Cyprus Presidency produced a further Negotiating Box (NB4) in September 2012;[27] this refines some options, but removes some of the hard figures contained in the Danish NB; the calculations are therefore based on figures in NB3 and the Commission proposals. The general thrust of NB4 implies a reduction in cohesion policy expenditure compared to NB3 and the Commission proposals, but this may not apply to all strands of policy.

The Commission's revised proposals for the MFF took account not only of updated regional GDP(PPS) per head data, but also of DG ECFIN's Spring economic forecast, which affects levels of capping. The July update also took account of the accession of Croatia, so that the revised MFF proposal was presented on an EU28 basis, although the reference point remains EU27 (eg. for GDP averages, etc.).

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[22] European Commission (2011) *A budget for Europe 2020*, COM(2011)500 final of 29 June 2011.

[23] European Commission (2011) *Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions of the European Regional Development fund, the European social fund and the Cohesion Fund and repealing Regulation (EC) No. 1083/2006,* COM(2011)615 final of 6 October 2011.

[24] Presidency (2012) Multiannual Financial Framework (2014-2020), Doc 11539/12, Brussels, 12 June.

[25] European Commission (2012) Amended proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020, COM(2012)388 final of 6 July 2012.

[26] For the 2007-13 MFF, the fiches were published contemporaneously on the European Parliament's website. However, at the time of writing, this had not been done with the fiches for 2014-20. We are grateful to a number of the EoRPA partners for providing us with the fiches.

[27] Presidency (2012) Multiannual financial Framework (2014-20), Doc 13620/12, Brussels, 18 September.

4.1 Policy architecture

The draft General Regulation identifies two 'goals' for Cohesion policy:[28]

- ***Investment for growth and jobs*** in Member States and regions, to be supported by all the Funds
- ***European territorial cooperation***, to be supported by the ERDF.

In financial terms, the Commission proposals allocated most of the total for these goals (over 96 percent) to investment for growth and jobs, for which three categories of NUTS 2 region are defined:

- ***Less-Developed Regions (LDR)***, where GDP is less than 75 percent of the EU27 average
- ***Transition regions (TR)***, where GDP is above 75 percent, but below 90 percent of the EU27 average
- ***More-Developed Regions (MDR)*** where GDP is above 90 percent of the EU27 average

The overall resources proposed for the Economic, Social and Territorial Cohesion subhead for 2014-20 are €379,243 million (2011 prices).[29] However, this sum includes the Connecting Europe Facility (CEF), for which the Commission has proposed €40,249 million.[30] Excluding the CEF, Cohesion policy annual allocations would be as set out inTable 3.

Table 3: Proposed EU28 commitment appropriations for 2014-20 (€m, 2011 prices)

2014	2015	2016	2017	2018	2019	2020	2014-20
46,426	47,355	48,031	48,558	49,070	49,517	49,939	338,994

Source: Unpublished working document of the Commission services: Fiche no. 2 addendum.

This is broken down between eligible areas as set out in Table 4, which also compares allocations for 2007-13 on the same price basis. This shows an overall decrease in proposed expenditure, with the sharpest reduction for the LDR, which also see a reduction in aid intensity compared with the previous period. By contrast, there is a significant increase proposed for TR, MDR and ETC, although in absolute terms the shifts are not dramatic.

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[28] Draft Cohesion Policy Regulation, Article 81(2), COM(2011)615 final.

[29] COM(2012)388 final.

[30] Unpublished working document of the Commission services: Fiche no. 2 addendum. Revised disaggregated figures have not been published by the Commission. COM(2012)388 provides information only at the main heading and subheading.

Table 4: 2007-13 EU27 and proposed 2014-20 EU28 commitment appropriations (2011 prices)

	2007-13			2014-20			
	€ m	% of total	€ per head pa	€ m	% of total	€ per head pa	% Change in total
Convergence regions/LDR	202,320	57.5	187.9	163,561	48.4	185.2	-19.16
Cohesion Fund	70,331	20	60.6	70,740	20.4	78.4	0.58
Transitional/TR, of which:	26,170	7.4	105.6	36,471	11.6	74.0	39.36
Phasing-out	*14,305*	*4.1*	*124.6*				
Phasing-in	*11,865*	*3.4*	*89.2*				
RCE/MDR	44,263	12.6	21.4	55,419	15.8	25.8	25.20
Territorial cooperation/ETC	8,626	2.5	2.5	11,878	3.5	3.4	37.70
OMR and LPD				925		20.0	
TOTAL	351,710	100		338,994	100		-3.62

Notes: (i) The 2007-13 figure for the Cohesion Fund includes the transitional arrangements for Spain; excluding Spain, per capita annual aid intensity would be around €76. (ii) Commitment appropriations for Outermost regions and low population density regions were not disaggregated in 2007-13, but the additional amount per head per annum was €40 (at 2011 prices). (iii) The 2007-13 figures are drawn from the original regulation and do not include the later adjustments made in respect of the Czech Republic, Poland and Slovakia on account of the divergence between forecast and actual GDP – see European Commission Communication on the technical adjustment of the financial framework for 2011, COM(2010)160 final of 16 April 2010. (iv) Prices are adjusted using DG ECFIN deflators.

Source: Own calculations from Fiche no. 2 addendum, Eurostat data and DG ECFIN AMECO online.

4.2 Spatial coverage

In some respects the spatial coverage proposed for 2014-20 represents continuity with rather than change from 2007-13; this is true of the Cohesion Fund, the LDR and, arguably, the MDR.

Under the Commission proposals, eligibility for the ***Cohesion Fund*** is restricted to Member States where GNI(PPS) per head is less than 90 percent of the EU average. This is the same as for 2007-13, except that eligibility is based on EU27 rather than EU25. As Table 5, for the Cohesion Fund, there is relatively little change in coverage in relation to 2007-13: Cyprus would lose eligibility; and Croatia would qualify for the Cohesion Fund following accession.

Table 5: Member State eligible for the cohesion fund 2014-20?

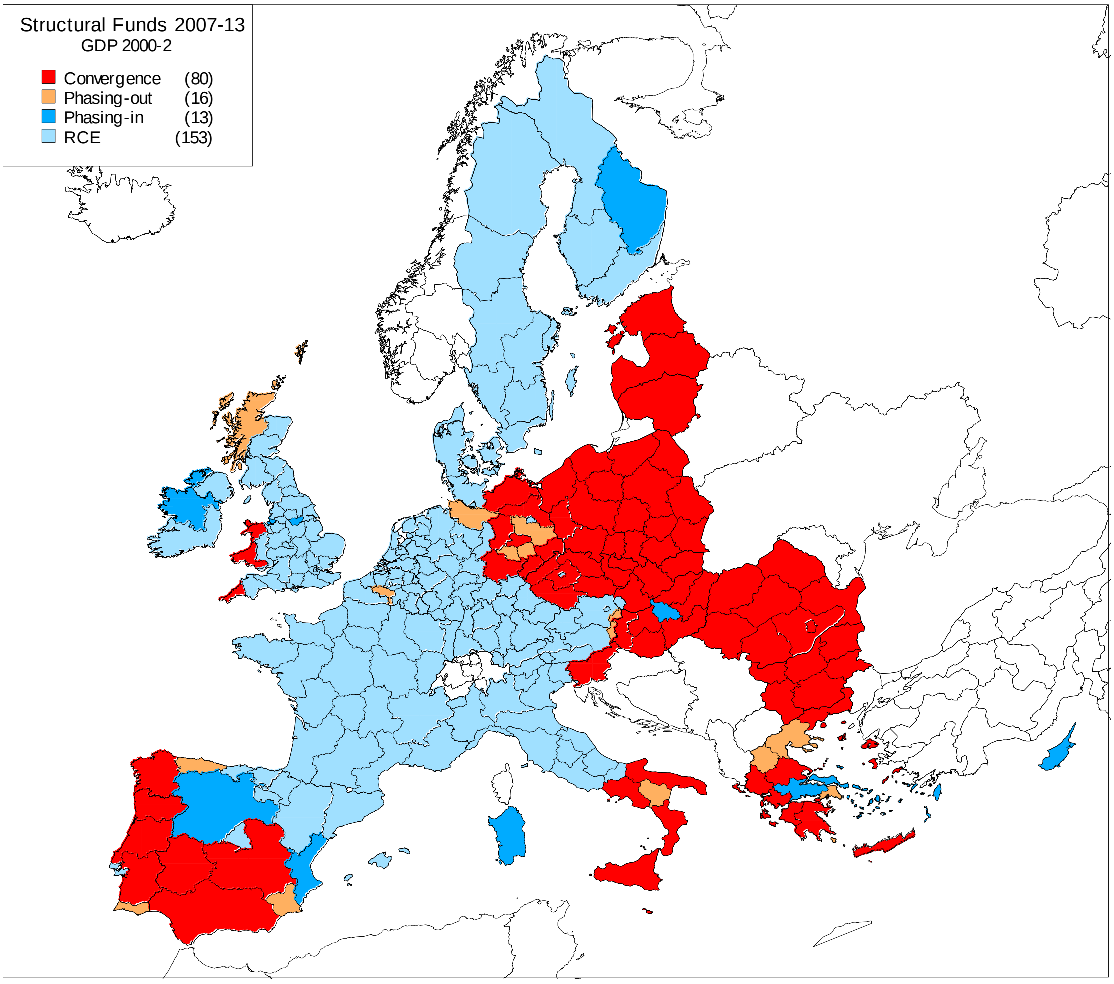
Eligible	GNI(PPS) per head EU27=100		Ineligible	GNI(PPS) per head EU27=100
BG	42.6		**CY**	96.7
RO	46.1		**ES**	100.4
LV	54.6		**IT**	102.4
LT	57.5		**IE**	109.4
PL	58.3		**FR**	109.7
HR	60.6		**UK**	113.5
HU	61.2		**FI**	118.0
EE	62.9		**BE**	118.7
SK	71.8		**DE**	118.9
MT	75.9		**AT**	124.8
CZ	76.2		**SE**	126.0
PT	76.7		**DK**	127.4
SI	86.0		**NL**	130.9
GR	89.8		**LU**	194.6

Note: Based on 2008-10 data.

Source: Own calculations from AMECO online data.

The outcomes for ***Structural Funds*** coverage are shown in Figure 3 and Table 6. For comparison, the previous eligibility map in 2007-13 is illustrated in Figure 2.

Figure 2: Structural Funds eligibility 2007-13



Source: Own elaboration after DG Regio.

The criteria for defining the ***Less-Developed regions (LDR)*** are essentially the same as for the Convergence regions in 2007-13, save for the shift in benchmark to EU27. However, on the basis of 2007-9 regional GDP(PPS) per head data, there are some significant changes in coverage between the two periods. In particular:

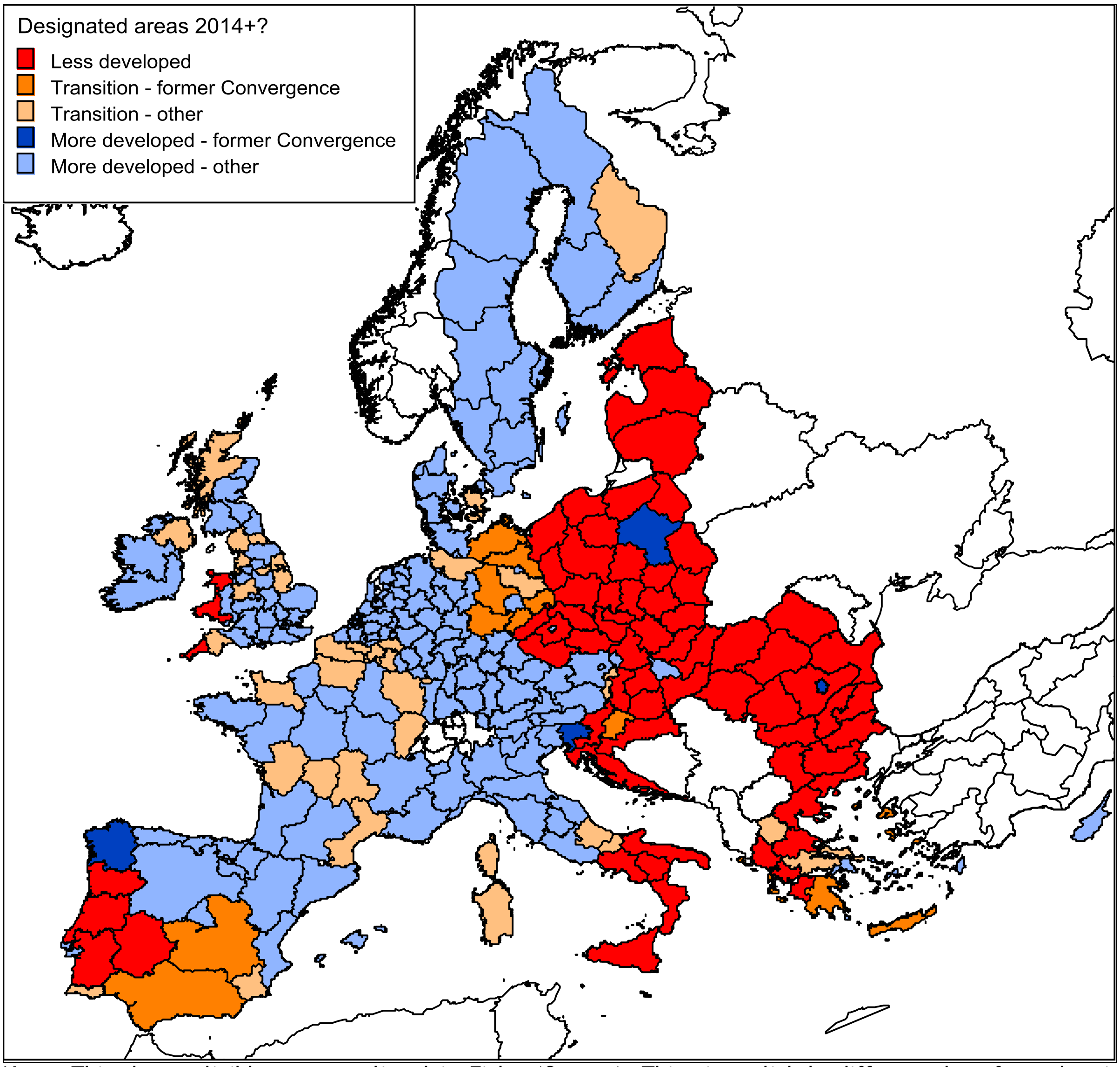
- coverage would fall from 31.7 percent to 24.8 percent of EU27;
- Germany would cease to have any LDR regions;
- in Spain, coverage would be significantly reduced (Extremadura only);
- Malta would lose Convergence status; and
- in Poland, Romania and Slovenia, the capital city regions would lose Convergence status.

The criteria for so-called *Transition regions (TR)* are markedly different from 2007-13. Whereas for 2007-13 transitional arrangements were made with reference to the status of a region in the previous funding period, under the 2014-20 proposals, TR are defined as regions where GDP(PPS) per head is between 75 percent and 90 percent of the EU27 average, *irrespective of whether the*

region had Convergence status in 2007-13. Former Convergence Transition regions are distinguished in Figure 3 which shows these to be in Germany, Greece, Malta and Spain. Overall, TR cover 14 percent of the EU27 population, but are heavily concentrated in certain countries, notably Germany, Spain, France and the United Kingdom, which account for the bulk of the TR population. *Within* countries, however, it is also significant in Belgium, Malta and Croatia (see Table 6).

The ***More-Developed Region (MDR)*** category retains the residual character of its predecessor, the Regional Competitiveness and Employment category. Importantly, however, it includes four regions which had Convergence status in 2007-13 – namely Galicia (ES), the Warsaw region Mazowieckie (PL), Bucharesti-Ilfov (RO) and the Ljubljana region, Zahodna Slovenija (SI). Again, these are distinguished in Figure 3.

Figure 3: Structural Fund eligibility 2014+?



Note: This shows eligible areas as listed in Fiche 12 rev 1. This gives slightly different data from that in Eurostat, though the sources are ostensibly one and the same. In general the discrepancies are small. However, data direct from Eurostat suggests that Peloponnisos would be an LDR (whereas Fiche 12 classifies it as a TR) and that Leipzig would be a TR, whereas Fiche 12 classifies it as an MDR.
Source: Unpublished working document of the Commission Fiche No 12, 16 March 2012.

Table 6: Structural Funds spatial coverage 2014-20? (% of population)

	LDR	TR	MDR
EU28	25.1	14.0	60.9
EU27	24.8	13.8	61.5
BE	-	28.9	71.1
BG	100.0	-	-
CZ	88.3	-	11.7
DK	-	14.9	85.0
DE	-	16.7	83.3
EE	100.0	-	-
IE	-	-	100.0
EL	39.0	22.1	39.0
ES	2.4	30.0	67.7
FR	2.9	27.5	69.5
IT	29.3	5.5	65.2
CY	-	-	100.0
LV	100.0	-	-
LT	100.0	-	-
LU	-	-	100.0
HU	71.0	-	29.0
MT	-	100.0	-
NL	-	-	100.0
AT	-	3.4	96.6
PL	86.4	-	13.6
PT	67.2	4.0	28.8
RO	89.5	-	10.4
SI	53.4	-	46.6
SK	88.6	-	11.4
FI	-	12.3	87.6
SE	-	-	100.0
UK	3.9	19.9	76.1
HR	62.3	37.7	-

Source: Own calculations from Eurostat data and Fiche 12.

4.3 Financial allocations

The mechanisms for allocating the funds differ between the different strands of policy. This section reviews the various approaches in turn, before considering the proposals for capping and safety nets and the possible outcomes of this process.

4.3.1 Less-Developed Regions

The Commission proposal and the NBs imply the retention of the basic principles underpinning allocations to Less-Developed Regions (LDR) – the so-called 'Berlin formula'. In particular:[31]

- the ***regional allocation*** is based on the 'gap' between GDP(PPS) per capita in the eligible regions and the EU average;
- the allocation (in €) is calculated as percentage of that gap, the percentage varying according to ***national prosperity;***

[31] NB3, para 30; NB4, para 30.

- an ***unemployment premium*** is added for each unemployed person in excess of the LDR average rate. The 2007-13 MFF allocated €700 per annum per person unemployed in excess of the Convergence region average rate. In NB3 this is raised to €800, which is in line with inflation. The wording of NB4 suggests that €800 could be the lower limit for the unemployment premium.

In addition, the Commission proposes an ***urban premium*** calculated as a per capita allocation for the population of cities with population exceeding 250,000 at €4 per head per annum. NB4 implies that if the urban premium is retained, €4 per head per annum would be the maximum amount. The total allocation is the sum of the adjusted regional allocation and, if applicable, the unemployment and urban premia.

Regarding the ***national prosperity coefficient***, as Table 7 shows, NB3 retains the 'banding' from the current period, although enlargement means that these bands are slightly different.[32] The proposed coefficients also differ, with NB3 proposing lower rates across the board, but (proportionately) less of a reduction in the least prosperous Member States, though there is no obvious pattern to the reduction.

Table 7: National prosperity coefficients 2007-13 and NB3

2007-13			NB3 proposal		
GNI EU25=100	**MS**	**National prosperity coefficient**	**GNI EU27=100**	**MS**	**National prosperity coefficient**
<82	CZ EE GR LV LT HU MT PL PT SI SK	4.25	**<82**	BG CZ EE LV LT HU PL PT RO SK	3.3
<99	ES	3.36	**<99**	EL SI	2.1
>99	DE FR IT UK	2.67	**>99**	ES FR IT UK	1.7

Source: NB3, para 30.

No hard figures – not even ranges – for the national prosperity coefficients are provided in NB4, suggesting that these will be subject to considerable discussion. Indeed, these coefficients were a major source of contention in the 2000-6 MFF negotiations, where an additional regional prosperity coefficient was also introduced to favour very poor regions in prosperous countries (principally Germany). However, for the 2007-13 MFF what mattered more for most Member States with Convergence regions was the subsequent impact of capping. For 2014-20, this is also likely to be true.

4.3.2 Transition regions

The per capita allocation for each Transition Region (TR) is calculated with reference to a theoretical maximum intensity and a minimum intensity.[33] The maximum intensity is based on the method for LDRs; it assumes a region with GDP of 75 percent of the EU average, applies the national prosperity coefficient and takes 75 percent of the amount obtained by this method as the

[32] Note that in 2007-13 the banding was changed to reflect enlargement. In the original Berlin formula which applied to 2000-6, the bands were 75 percent and 90 percent of the EU15 average.

[33] NB3, para 32; NB4, para 32.

maximum. The minimum is the average aid intensity in the MDR of that Member State.[34] The actual aid intensity for TR depends on GDP per head and is calculated through a 'linear interpolation' of regional GDP per head to the minimum and maximum scale. This means that the closer is a region's GDP to 90 percent of the EU average, the closer the aid intensity of the TR will be to that of the MDR in that country. In addition, an ***unemployment premium*** of €400 per annum is added for each unemployed person in excess of the LDR average rate and an ***urban premium*** of €4 per head per annum also applies (see above). The latest NB4 suggests that the unemployment and urban premia indicated in NB3 are the upper end of the ranges (assuming the urban premium is retained). TR allocations are also subject to capping.

4.3.3 More-Developed regions

The More-Developed Regions (MDR) methodology is similar to that for 2007-13. It is based on an initial financial envelope set on a per capita basis - €22.6 per head on eligible population per annum.[35] NB4 implies that €22.6 is upper end of the range.[36] A per capita allocation of €22.6 yields an initial budget of €44,468 million for 2014-20. As for 2007-13, this initial sum is distributed on the basis of a key (see Table 8);[37] however, the criteria proposed for 2014-20 differ from those used in 2007-13, and place less emphasis on total population, more on employment rates and significantly more on educational attainment. However, direct comparisons are complicated by the adjustments made to RCE allocations in respect of GDP and previous allocations (see **Error! Reference source ot found.**).

Table 8: Proposed criteria and weightings for MDR financial allocations 2014-20

Criterion	Weight (%)
Total MDR population	25.0
Number of unemployed people in NUTS 2 regions with an unemployment rate above the average of all the more-developed regions	20.0
Employment to be added to reach the Europe 2020 target for regional	20.0
Number of people aged 30 to 34 with tertiary educational attainment to be added to reach the Europe 2020 target of 40%	12.5
Number of early leavers from education and training (aged 18 to 24) to be subtracted to reach the Europe 2020 target of 10%	12.5
Difference between the observed GDP(PPS) of the region and the theoretical regional GDP if the region had the same GDP per head as the most prosperous NUTS 2 region	7.5
Population of NUTS 3 regions with a population density of below 12.5 inhabitants per km^2	2.5

Source: NB3, para 35.

[34] Before either any regional safety net or urban premium is applied. Note, however, that in some cases there is no national figure to apply – this is true of Malta and Croatia. In the calculations undertaken for this paper, the EU average has been used for these countries.

[35] NB3, para 34.

[36] NB4, para 34.

[37] NB3, para 35; NB4, para 35.

For 2014-20, the proposed initial share of MDR allocations for each Member State is the ***sum of the shares of its eligible regions*** which are determined on the basis of the criteria and weightings shown in Table 8.[38] In addition to the outcome of this distribution key, an ***urban premium*** of (up to – NB4) €4 per head per annum also applies (see above). MDR allocations are *not* subject to capping.

4.3.4 Cohesion Fund

As for 2007-13, the Commission proposals and NB3 envisage an initial distribution of Cohesion Fund monies on the basis of a theoretical envelope. This is proposed as €50 per annum per head of eligible population,[39] which amounts to €45,089 million for 2014-20 (including Croatia); NB4 implies that €50 would be the upper end of the range.[40] The criteria proposed in the NBs for the distribution of the theoretical envelope are unchanged from 2007-13. As before, the proposal is for the Cohesion Fund to account for one-third of total Cohesion policy allocations for Member States which joined the EU after 1 May 2004.[41] As a result, only the allocations for Portugal and Greece would be determined by the distribution key. Under the amended Commission proposals, the Cohesion Fund amounts to €70,740 billion (2011 prices), taking account of the one-third rule (and transitional arrangements). Transitional proposals are made for Member States losing Cohesion Fund eligibility[42] (as noted, only Cyprus). This is a per capita amount (*up to* €50 in NB4)[43] that would taper over the period to be phased out by 2020. At €50, Cohesion Fund transitional arrangements would amount to around €139 million over the period 2014-20 (2011 prices). Cohesion Fund allocations are subject to capping.[44]

4.3.5 European Territorial Cooperation

European Territorial Cooperation (ETC) allocations are determined by a distribution key. This is based on the share of border regions in each Member State and its share of total population. The weighting given to each is determined by the share of the cross-border and transnational strands in the total ETC budget, this being proposed as 77.9 percent and 22.1 percent respectively.[45] ETC allocations are *not* subject to capping.[46]

[38] The quality of the data relating to tertiary educational attainment and early leavers is very poor. Neither data set is available in Eurostat at NUTS 2. For the purposes of this paper, these values were estimated on the basis of information in DG Regio Country Factsheets (http://ec.europa.eu/regional_policy/information/brochures/pages/country2012/index_en.cfm); however, this was not always available for the same geographical unit, so that, where necessary, NUTS 1 or even national data was substituted; it is not known how the Commission deals with such gaps. It also raises a general issue about whether data of such poor quality should carry a 25 percent weight in determining the allocation of MDR funding.

[39] NB3, para 36.

[40] NB4, para 36.

[41] NB3, para 37; NB4, para 37.

[42] NB3, para 38.

[43] NB4, para 38.

[44] NB3, para 39; NB4, para 39.

[45] NB3, para 40; NB4 para 40.

[46] NB3, para 40.

4.3.6 Outermost, sparsely-populated regions and islands

Allocations to the Outermost regions and the northern sparsely-populated regions are based on a per capita amount and are in addition to any allocation under the relevant designated area strand (i.e. LDR, TR, MDR). In the current period this amounts to €35 per head per annum (2004 prices). NB3 gives an indicative figure of €20,[47] clearly a very substantial reduction. NB4 implies that this is the lower end of the range. Mention is made of the need to take account of the special situation of island regions, but no indicative proposals are made in either NB.

4.3.7 Safety nets, ceilings and capping

The Commission proposals provide for an ***absorption cap***, set annually at 2.5 percent of forecast GDP for the period 2014-20. In addition, NB3 outlines provisions for what might be termed a 'low-growth' cap.[48] For Member States joining the EU before 2013 (i.e. excluding Croatia), and where average real GDP growth in 2008-10 was less than the EU27 average, NB3 proposes an alternative rate as an option, though no indicative rate. Clearly the aim here is to avoid disadvantaging countries that have experienced lower than average growth. This provision is reformulated in NB4.[49] First, it implies that the general cap would be a maximum of 2.5 percent. Second, regarding a 'slow growth cap' this is proposed to apply to countries where growth had been less than -1.5 percent in 2008-10 (rather than with reference to the EU average). This would result in a higher cap; the amount is not specified, but it would be higher than the general cap and less than three percent.

NB3 includes scope for a ***reverse safety net*** i.e. for 2014-20 allocations to be limited with reference to 2007-13 allocations;[50] the Commission's proposals *do not* include this, but it is clearly seen by some Member States as a mechanism for reining in spend. An important issue here for some EU12 countries is that 2007-13 allocations were affected by capping. This was calculated on the basis of growth rates forecasts that turned out to be inaccurate, but could still be a driver of future allocations.[51] *NB4 drops the possibility of a reverse safety net.*

The Commission proposal provides for a ***national safety net*** of 55 percent of the 2007-13 allocation. This is reflected in NB3.[52] However, NB4 implies that 55 percent is the *lower* end of the range for the national safety net.[53]

Commission proposals also outline a ***regional safety set for former Convergence regions***. Support corresponding to two-thirds of their allocation under the Convergence objective; this is replicated

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[47] NB3, para 41; NB4, para 41.

[48] NB3, para 42.

[49] NB4, para 42.

[50] NB3, para 43.

[51] It is also worth noting that for 2007-13 the outcomes of the Berlin formula were, for all Member States, reduced by transfers to rural development and fisheries.

[52] NB3, para 42.

[53] NB4, para 44.

in NB3, although there is a suggestion that it could be reduced to 55 percent;[54] the same formulation is retained in NB4.[55] It is not clear how this allocation is calculated by the Commission. Although the Berlin formula calculated allocations at the regional level for 2007-13, the initial allocations arising from these amounts were summed to the national level and subject to capping and transfers to rural development and fisheries and, in the case of the EU10, the one-third rule. As such, there was no indicative allocation made at the regional level.[56] In addition, in some of the new Member States (CZ PL SK) allocations were subject to later upward adjustment because GDP forecasts had been sufficiently inaccurate to trigger a revision – is this part of the calculation within the framework? For Bulgaria and Romania allocations were made separately; these were substantially below what they would have been had they acceded at the same time as the EU10, and apparently not based on the Berlin formula. A further complication is that in some Member States (DE SI), the regional breakdown has changed since 2007-13.[57]

4.3.8 Outcomes

In practice, it is quite challenging to replicate the Commission's approach to allocating Cohesion policy funds between countries. There are numerous uncertainties, and aspects which appear clear can be open to alternative interpretations. In consequence, there are some discrepancies between the Commission totals as set out in Annex 3 to Fiche 2 and those in Table 10 below. The discrepancies are illustrated in Table 9.

Table 9: Differences between Commission and EPRC calculations

	COM - Fiche 2 (€m)	Table 10 (€m)	Difference (€m)	Difference (%)
LDR	163,561	166,340	2,779	1.70
Transition	36,471	36,078	-393	-1.08
MDR	55,419	52,804	-2,615	-4.72
ETC	11,878	11,878	0	0.00
Cohesion Fund	70,740	70,119	-621	-0.88
OMR and SP	925	924	-1	-0.08
Total	338,994	338,086	-908	-0.27

Overall, the discrepancy is quite limited. However, this conceals some variation within the strands. Specifically, allocations for LDR appear higher in Table 10 than in Fiche 2; it is difficult to account for this (since the eligible population coincides) but it may be attributable to differences between the calculation of GDP per capita used by the Commission and that published by Eurostat or by the interpretation of the capping method. Conversely, the outcomes for TR and MDR are underestimated in Table 10 in relation to Fiche 2. This seems likely, in both cases, to be a product

[54] NB3, para 44.

[55] NB4, para 43.

[56] Save, arguably, at a later stage, when the Commission proposed a regional breakdown for the purposes of the OP. However, most countries, there was a significant multi-region component, so the allocation seems unlikely to be relevant.

[57] Given these issues, and the absence of any information about the Commission method of calculating this amount, the approach taken has been as follows: to calculate the share of a given region based on the application of the Berlin formula; to apply this share to the indicative Convergence allocation, excluding any region-specific provisions; and to uprate prices from 2004 to 2011, using the standard annual deflator. It should be stressed, however, that there is a high degree of uncertainty about whether these assumptions are correct.

of the uncertainties surrounding the safety net for the former Convergence regions. In addition, the amount allocated to Croatia and announced in the Commission's revised proposals is higher than the level of the GDP cap, also suggesting some issues of interpretation in the capping method.

Given the uncertainties outlined above, the outcomes shown in Table 10 must be treated with considerable caution: although the broad orders of magnitude appear to be correct, there are obvious discrepancies between the Table 10 and the Commission figures. Nevertheless, several country groupings may tentatively be identified:[58]

1. Member States where there would be an ***increase in allocations though this would be curtailed by capping:*** BG, PL, RO, SK. In the case of Romania, this increase appears substantial, in spite of the loss of eligibility of Bucharest. This is partly due to the less generous treatment of Romania (and Bulgaria) in the early part of the last period. In the case of Poland and the Slovak Republic, relatively robust growth rates have raised the level of the absorption cap.

2. Those where there would be an ***increase in allocations***, but this would be unaffected by capping: BE, DK, IE, FR, IT, LU, SE, UK. The increases partly owe to the impact of the new TR category (especially in Belgium, France and the United Kingdom) and partly due to the combination of higher aid intensity[59] and a shift in shares under the new MDR distribution formula - Sweden, for example, increases its initial allocation from 2.9 percent of €42.7 billion to 3.4 percent of €48.5 billion under the MDR distribution formula.

3. Those where there would be a ***decrease in allocations as a consequence of capping***: EE, LV, LT, HU. In these countries, growth has been slower than in most EU12 countries over the last few years so that the impact of the lower cap (2.5 percent of GDP) is exaggerated.[60]

4. Those where there would be a ***decrease in allocations*** as a consequence of the formulae and/or economic change: CZ, DE, ES, GR, MT, NL, AT, PT, FI.

5. Those where there has been a significant decrease such that ***allocations rely on the 55 percent safety net***: CY, SI.

[58] Bearing in mind that small changes could potentially tip a given Member State into another category.

[59] €20.7 in 2007-13 as opposed to €22.6 in 2014-20 (2011 prices) in the initial distribution formula.

[60] Capping in these countries for 2007-13 was as follows: LV – 3.7893; LT and EE – 3.7135; and HU – 3.5240.

Table 10: Estimates of national Cohesion policy allocations by strand (€m, 2011 prices)

	ALLOCATIONS AFTER CAPPING, 1/3 CF AND 55% NATIONAL SAFETY NET							2014-20 as% of 2007-13
	LDR	TRANS	MDR	CF	ETC	OMR & SP	TOTAL	
EU28	166340	36078	52804	70119	11878	924	338144	
EU27	160771	36035	52804	67208	11674	924	329416	93
BE	0	1339	975	0	349	0	2663	115
BG	4856	0	0	2510	165	0	7531	109
CZ	13406	0	77	6915	348	0	20746	76
DK	0	95	315	0	300	0	710	114
DE	0	8825	8809	0	1285	0	18919	70
EE	2089	0	0	1077	66	0	3232	92
IE	0	0	909	0	158	0	1067	114
EL	4978	2353	1076	3492	307	0	12206	58
ES	1218	12001	11529	0	821	288	25857	72
FR	2635	5369	6919	0	1449	263	16635	114
IT	18735	1402	8462	0	1509	0	30108	102
CY	0	0	150	143	73	0	366	55
LV	2615	0	0	1358	101	0	4073	87
LT	3993	0	0	2056	119	0	6169	88
LU	0	0	44	0	27	0	71	107
HU	11459	0	371	6096	361	0	18288	71
MT	0	334	0	177	20	0	531	61
NL	0	0	1075	0	509	0	1584	81
AT	0	98	1020	0	341	0	1459	98
PL	49402	0	881	25540	797	0	76620	111
PT	15148	214	788	3080	163	69	19461	89
RO	17747	0	390	9291	445	0	27874	140
SI	1187	0	302	789	78	0	2356	55
SK	9110	0	32	4682	223	0	14047	118
FI	0	160	784	0	217	181	1343	76
SE	0	0	1661	0	453	123	2237	116
UK	2192	3846	6232	0	991	0	13262	122
HR	5569	43	0	2911	204	0	8728	

Source: EPRC calculations from Eurostat data, COM fiches, COM allocation decisions for 2007-13, AMECO online and DG Regio Country profiles.

5. NEGOTIATING THE COHESION POLICY REGULATIONS

In parallel with the negotiations on the MFF and Cohesion policy allocations, the legislative development of the Regulations has reached an advanced stage during 2012. Partial agreements were reached on key negotiation blocks under the Danish Presidency and the outstanding blocks and issues are to be addressed under the Cypriot Presidency. The European Parliament has also formulated its negotiation mandates on the General and Fund-specific Regulations in preparation for inter-institutional negotiations with the Council.

5.1 The legislative state-of-play

The negotiations in the Council of Ministers started in October 2011 following the (delayed) publication of the draft legislative package by the Commission.[61] Prior to this, the Hungarian and Polish Presidencies had organised an extensive programme of public and high-level meetings and conferences on key strategic themes. Structured exchanges of views on both strategic and operational issues had been also facilitated by the establishment of the 'High-Level Group to reflect on the Future of Cohesion Policy', bringing together Commission and Member State policy-makers for a series of informal meetings over the 2009 to mid-2011 period.

The Presidency Trio (Poland, Denmark and Cyprus) developed a common approach by dividing the regulatory proposals into thematic blocks for negotiation at Council level. The General Affairs Council's Structural Actions Working Group was responsible for the negotiations on regulatory and technical details of these blocks, while the budgetary and financial aspects were negotiated in other committees and Council formations. The remit of the Friends of the Presidency Group on the multi-annual financial framework included Cohesion policy allocations, geographical eligibility, the distribution of resources across funds, macro-economic conditionality, the performance reserve and co-financing. Certain financial management, audit and control provisions were negotiated as part of the EU's financial regulation, which is revised on a triennial basis in a different Council grouping. The cross-cutting and overlapping nature of the negotiations has been a source of frustration in the SAWG as discussions on important substantive issues – such as the relationship between programming and Council recommendations, the performance agenda or financial management issues – have been hampered because of the need to wait for clarifications in other arenas, associated delays and the possibility for decisions to be revised or reversed.

The first phase of the negotiations under the Polish Presidency began with the presentation and explanation of the whole legislative package by the Commission, followed by detailed discussions on five blocks: strategic programming, thematic concentration, ex-ante

[61] The included an overarching Common Provisions Regulation setting out common rules for the ERDF, the ESF, the Cohesion Fund, the European Agricultural Fund for Rural Development, and the European Maritime and Fisheries Fund. It also included specific regulations for the ERDF, the ESF, the Cohesion Fund, the ETC, the EGTC, the European Globalisation Adjustment Fund (EGF) and the EU Programme for Social Change and Innovation (PSCI).

conditionalities and performance review, and territorial development. Member State positions on specific articles were circulated within the SAWG to provide transparency to the process, allowing clustering of views and providing the Member States with the opportunity to verify that their positions had been interpreted correctly. The Presidency drafted compromise texts on strategic programming and thematic concentration and a first formal exchange of views by Ministers responsible for Cohesion Policy was held at the General Affairs Council in mid-December 2011.

Denmark took over the EU Presidency at the start of 2012, tasked with advancing the negotiations to a relatively final state of agreement. Its efforts were focused on elaborating the first formal compromise texts and achieving preliminary agreement on key blocks. On 24 April 2012, a 'partial general approach' was agreed on some of the more technical elements of the proposals,[62] namely: programming;[63] ex-ante conditionality;[64] management and control;[65] monitoring and evaluation;[66] eligibility;[67] and major projects.[68] Statements were also tabled by the Commission and Council to clarify simplified costs provisions; by the Commission clarifying audit arrangements; and by Poland requesting technical clarifications on eligibility and major project provisions.[69]

A second partial general approach was agreed at the 26 June GAC,[70] along with five compromise proposals on: thematic concentration;[71] financial instruments;[72] revenue-generating projects and public-private partnerships;[73] and the performance framework.[74]

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[62] Council of the European Union (2012) *Council takes first hurdle towards new EU Cohesion policy*, 8925/12, PRESSE 159, 24 April 2012, Luxembourg.

Council of the European Union (2012*) Cohesion Policy legislative package - elements of a partial general approach*, 8207/2/12 REV 2, 20 April 2012, Brussels.

[63] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on Programming*, 8207/12 ADD 1 REV 2, 20 April 2012, Brussels.

[64] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on Ex ante Conditionality*, 8207/12, ADD 2 REV 2 20 April 2012, Brussels.

See also the Commission's explanatory note on conditionality: Council of the European Union (2012) *Cohesion Policy Legislative Package - Explanatory note: Ex ante conditionalities - suspension of payments*, 9014/12, 20 April 2012.

[65] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on Management and Control*, 8207/12 ADD 3 REV 2, 20 April 2012, Brussels.

[66] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on Monitoring and Evaluation*, 8207/12 ADD 4 REV 2, 20 April 2012, Brussels.

[67] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on Eligibility*, 8207/12, ADD 5 REV 2, 20 April 2012, Brussels.

[68] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on Major Projects*, 8207/12, ADD 6 REV 2, 20 April 2012, Brussels.

[69] Council of the European Union (2012) *Cohesion Policy Legislative Package – Statement*, 8207/12 ADD 7 REV 1, 20 April 2012, Brussels.

[70] Council of the European Union (2012) *3180th Council meeting, General Affairs*, 26 June 2012, Press Release, 11690/12, Luxembourg.

Council of the European Union (2012) *Cohesion Policy legislative package – elements of a partial general approach*, 11027/1/12 REV 1, 20 June 2012, Brussels.

Compared to the Polish Presidency approach, the process was somewhat less transparent as detailed Member State reactions were not circulated to SAWP delegates. However, country statements were published accompanying the proposals on the performance framework (Italy and Poland jointly) and on the harmonisation of rules across Funds (Czech Republic, France, Italy, Netherlands, Poland, Spain, United Kingdom).[75] Led by the UK, the latter group called on the incoming Cypriot Presidency to facilitate a horizontal review of the regulations to ensure that the amendments made to the regulations respect the aspirations for harmonisation, simplification, a reduction in administration and if necessary, to make further changes in order to meet these aspirations. Italy and Poland expressed reservations about the compromise proposals on the performance block - particularly the voluntary nature of the performance mechanism and the risks of adverse selection against ambitious and innovative projects - and called for a discussion at a later stage to ensure coherence with other thematic blocks.

The main objective of the Danish Presidency was to progress the legislative texts to a relatively final state of agreement. A broad consensus was achieved on many strategic and technical issues. Importantly, the main programming provisions were agreed providing the Member States with a degree of certainty to launch the preparations on Partnership Agreements and programmes. Aside from the narrowing of Member States differences, the Denmark was also reported to have been proactive in challenging the Commission on its proposals leading to improvements to the legislative text. Nevertheless, many open questions remained by the end of the Danish Presidency.

It was the responsibility of the Cypriot Presidency to close the outstanding negotiation blocks and issues. Broad agreement was achieved on a range of these elements on 12 October 2012,[76] relating specifically to: territorial development;[77] European Territorial Cooperation;[78] the role of country-specific recommendation;[79] certain financial issues not in

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[71] Council of the European Union (2012) *Cohesion Policy legislative package – Presidency compromise on thematic concentration*, 11027/12 ADD 1 REV 1, 20 June 2012, Brussels.

[72]Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on financial instruments*, 11027/12 ADD 2 REV 1, 20 June 2012, Brussels.

[73] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on net revenue generating operations and public private partnerships*, 11027/12 ADD 3 REV 1, 20 June 2012, Brussels.

[74] Council of the European Union (2012) *Cohesion Policy legislative package - Presidency compromise on the performance framework*, 11027/12 ADD 4 REV 1, 20 June 2012, Brussels.

[75] Council of the European Union (2012) *Cohesion Policy legislative package – Statements*, 11027/12 ADD 5 REV 2, 20 June 2012, Brussels.

[76] Council of the European Union (2012) Cohesion Policy legislative package - elements of a partial general approach, 14287/2/12, ADD 1 REV 2, 12 October 2012, Brussels

[77] Council of the European Union (2012) Cohesion Policy legislative package - Presidency compromise on Territorial Development, 14287/12, ADD 3 REV 1, 12 October 2012, Brussels.

[78] Council of the European Union (2012) Cohesion Policy legislative package - Presidency compromise on elements of the European Territorial Cooperation, 14287/12 ADD 2 REV 1, 12 October 2012, Brussels.

[79] Council of the European Union (2012) Cohesion Policy legislative package - Presidency compromise on country-specific recommendations, 14287/12 ADD 5 REV 1, 12 October 2012, Brussels.

the MFF (non-transferability of resources, additionality, and modulation of co-financing rates);[80] indicators;[81] management and control;[82] publicity and communication and technical assistance.[83] A compromise text on the Common Strategic Framework for the regional, cohesion, social, rural and fisheries funds would also be developed. At the time of writing (October 2012), it was anticipated that the Council negotiations would be concluded by the end of 2012, paving the way for an agreement with the European Parliament in early 2013.

5.2 Member State negotiation issues and amendments

5.2.1 Policy architecture

The negotiations on the policy architecture are primarily concerned with questions of eligibility and financial allocations, as part of the negotiations on the financial framework reviewed earlier. Two of the Commission proposals – the new Transition category of regions and the ring-fencing of ESF expenditure - have important implications for the substantive content of programming, particularly in terms of thematic concentration on Europe 2020 objectives.

(i) Transition regions

The creation of a new intermediate category of Transition regions with higher aid intensity is contentious. While a significant number of countries support the idea, Italy and the Netherlands are firmly opposed. The concerns are not just about money but also about differentiation in policy rules, e.g. less thematic concentration in Transition regions. By contrast, the Polish government considers that the Transition regions category should include special conditions of support (aid intensity and thematic eligibility) for regions that have crossed the threshold from Convergence regions for the first time; this would apply to fewer than half of the regions in the new category, including the Warsaw region Mazowieckie.

(ii) Increased share of ESF funding

The Commission has proposed to increase the ESF share of total funding in the light of the important role of the Fund in addressing the EU's employment, inclusion and poverty reduction objectives. This is not regarded as being particularly controversial in many developed countries, at least where Competitiveness regions already allocate high shares of

[80] Council of the European Union (2012) Cohesion Policy legislative package - Presidency compromise on Financial Issues not in the MFF (non-transferability of resources, additionality and modulation of co-financing rates), 14287/12, ADD 4 REV 1, 12 October 2012, Brussels.

[81] Council of the European Union (2012) Cohesion Policy legislative package - Presidency compromise on Indicators, 14287/12 ADD 7 REV 1, 12 October 2012, Brussels.

[82] Cohesion Policy legislative package - Presidency compromise on Management and Control, 14287/12 ADD 6 REV 1, 12 October 2012, Brussels.

[83] Council of the European Union (2012) Cohesion Policy legislative package - Presidency compromise on Information and Communication and Technical Assistance, 14287/12, 12 October 2012, Brussels

funding to the ESF (Austria, Finland, Germany). France takes a more positive view of the Commission proposal, arguing that a strengthened ESF could encourage a useful rebalancing in focus towards important themes tackled by the ESF. By contrast, other countries are critical. Italy argues that each territory should be able to choose the best policy-mix (and funding source) to achieve their desired objectives. A similar stance can be seen in many EU12 countries, where there are concerns about absorption risks and where efforts to cross-finance ERDF and ESF have been challenging in the past (Poland).

In response to these concerns, a compromise proposal by the Danish Presidency introduced additional flexibility by introducing indicative ranges (rather than fixed quotas) and lower minimum thresholds:

- 45-50 percent of total funding in More-Developed regions (instead of 52 percent);
- 35-40 percent of total funding in Transition regions (instead of 40 percent); and
- 20-25 percent of total funding in Less-Developed regions (instead of 25 percent).

A provision has also been introduced to allow a lower percentage allocation within a specific category of regions as long as it is compensated by a corresponding increase in another category of regions within a Member State.

5.2.2 Strategic programming

The Commission has proposed to strengthen the approach to strategic programming in 2014-2020 including the introduction of a Common Strategic Framework for all shared management funds, Partnership Contracts to translate CSF priorities into binding national commitments and the ring-fencing of expenditure.

(i) General principles

The Council have introduced several amendments to the general principles of the draft Regulation. First, the emphasis on the contribution of the CSF Funds to Europe 2020 objectives has been rebalanced and softened by also adding references to their role in contributing to their Fund-specific missions in line with the Treaty basis of the Funds while taking specific account of the context of each Member State. Second, the requirement for 'close cooperation' between the Member States and the Commission is qualified with the reference to the need to respect the principle of subsidiarity. Third, the text on the principle of proportionality has been expanded with a reference to the need to take account of 'the overall aim of reducing administrative burden'.

On the partnership principle, the draft Regulation included provisions for a code of conduct to provide a clearer overview of how partners across the EU should be involved in EU funds.[84] A Commission Staff Working Document on the code of conduct was published in

[84] European Commission (2012) *The partnership principle in the implementation of the Common Strategic Framework Funds - elements for a European Code of Conduct on Partnership*, Commission Staff Working Document, SWD(2012) 106 final, 24.4.2012, Brussels. Available at: http://ec.europa.eu/regional_policy/sources/docoffic/working/strategic_framework/swd_2012_106_en.pdf

February 2012, with the stated aim of supporting the efforts in Member States to engage all partners in the development of Partnership Agreements. The paper refers to the key partners – regions, local authorities, economic and social partners – and details how they might best engage at all stages in the EU policy cycle. Most Member States do not support the introduction of a legally-binding code of conduct. Italy is one of the few Member States defending the Commission's proposal, partly because it is regarded as being in line with the existing approach employed in Italy but also because it is keen to strengthen civil society engagement and accountability in the future.

(ii) Common Strategic Framework

A key innovation to the strategic programming approach in 2014-2020 is the proposal for a Common Strategic Framework (CSF) to provide an overarching strategy for closer alignment and integration of the Structural, Cohesion, Rural Development and Fisheries Funds and with other EU policies. A Commission Staff Working Document on the Common Strategic Framework was published on 14 March 2012.'[85] The purpose of the document was 'to set out the main elements of the CSF as a basis for discussion with the European Parliament and the Council'. The main elements include:

- the Europe 2020 objectives that should be addressed in Member State Partnership Contracts, closely linked to their National Reform Programmes, and 'key actions' which are expected to generate the greatest impact;
- the linkages with the governance process of the European Semester;
- the coordination and integration of the CSF Funds;
- horizontal principles and policy objectives for the implementation of the CSF Funds;
- the development of Partnership Contracts and programmes to address the territorial challenges of smart, sustainable and inclusive growth; and
- priorities for territorial cooperation activities.

There is widespread support across Member States for a Common Strategic Framework to pursue a coordinated approach across all the Funds. Europe 2020 themes are seen in many countries as fitting well with domestic policy agendas and priorities. The main concern among Member States is to ensure that there is sufficient flexibility to achieve an appropriate balance between thematic objectives and territorial needs in the Member States and regions. This has been partly addressed through amendments to the draft General Regulation, which specifies that the main purpose of CSF is to provide 'strategic orientation' and that account should be taken of the 'key territorial challenges for different types of territories'. In a similar vein, additional references have been added to the content provisions on the CSF, which should provide 'the means with which the CSF Funds

[85] European Commission (2012*) Elements for a Common Strategic Framework 2014 to 2020. The European Regional Development Fund the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund*, Commission Staff Working Document, SWD(2012) 61 final, Part I, 14 March 2012, Brussels. Available at: http://ec.europa.eu/regional_policy/sources/docoffic/working/strategic_framework/csf_part1_en.pdf

can translate the key territorial challenges into national, regional and local interventions and address them in an integrated way.'

The procedure for adopting the CSF has also been contested by the Council. Most Member States argue that the CSF should be included as an Annex to the General Regulation, requiring approval by the Council and the Parliament under the 'ordinary legislative procedure', instead of being adopted by the Commission as a Delegated Act. Revisions of the CSF would therefore also require Council and Parliament approval. The Commission has accepted that parts of the CSF could be included as an Annex but argues that it should be empowered to adopt a Delegated Act to complete the Annex with the more technical 'non-essential elements' and to amend the Annex through a Delegated Act. Accordingly, a revised draft of the CPR was adopted by the Commission in September 2012 including a new annex split into four sections:[86]

- means to achieve coherence and consistency with the economic policies of Member States and the Union;
- coordination mechanisms among CSF Funds and with other relevant Union policies and instruments;
- horizontal principles and cross-cutting policy objectives; and
- arrangements to address territorial challenges.

The Delegated Act will in turn contain two sections:

- sections on indicative actions of high European added value and corresponding principles for delivery; and
- priorities for territorial cooperation.

It is not clear yet whether the Council will accept this because it is these latter sections that contain much of the prescriptive detail on the thematic and territorial content of Partnership Agreements and programmes. That said, the new reference to 'indicative' actions, replacing the previous 'key' actions, suggests a less prescriptive approach than originally foreseen.

(iii) Partnership Agreements

Building on the current National Strategic Reference Frameworks, the Commission proposed the introduction of 'Partnership Contracts' to translate CSF priorities into national strategies. The Council has replaced the term Partnership Contract with 'Partnership Agreement' suggesting a less binding contractual relationship, although the legal implications of the Partnership Agreement would be stronger than the previous NSRF (i.e.

[86] European Commission (2012) Amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006, COM(2012) 496 final, Brussels.

by including ex-ante conditionalities). That said, the Council has also introduced more legal clarity in the scope of the Commission decision on the Partnership Agreement, including the exclusion of certain issues from the decision such as the integrated approach to territorial development and partnership arrangements.

As regards the required content of the Partnership Agreement, the main changes to the text aim to increase the visibility of the territorial dimension in the socio-economic analysis, which should take account of ‘territorial’ challenges and potentials; and the introduction of caveats on the linkages to economic governance by taking account of national reform programmes ‘where appropriate’ and of ‘relevant’ country-specific recommendations relating to the European semester. Concerns about the strengthened role of the national level in federal countries, where regional policy competences are devolved, have been addressed too with references to subsidiarity and the need to respect national institutional arrangements.

(iv) Operational Programmes

The Commission has proposed a more results-oriented programming process to ensure that programmes have clearly specified objectives, intervention logics and targets, are oriented towards results, and include appropriate conditionality provisions for effective implementation of the Funds.

Integrated programming would be facilitated by allowing multi-fund programmes combining the ERDF, CF and ESF (but not EAFRD or EMFF), although priority axes in all OPs would correspond to a ‘single thematic objective’, including one or more investment priorities of that objective, and a ‘single fund’. Cross-financing would continue to apply to the ERDF and the ESF to finance measures in a complementary manner, albeit subject to a lower limit of five percent of funding for each Priority axis of an OP (compared to ten percent in the current period).

The main revisions by the Council include:

- flexibility for a Priority axis to combine more than one category of region, one or more investment priorities from different Funds under one thematic objective, or complementary investment priorities from different thematic objectives;
- raising the cross-financing threshold for complementary funding by the ERDF and the ESF back to ten percent;
- a less prescriptive formulation of the description of actions, i.e. restricted to action ‘types’ and the ‘guiding principles’ for their selection;
- the possibility to include certain elements of programming information exclusively in the Partnership Agreement where one programme is used for a single Fund; and
- voluntary submission of an opinion by the national equality bodies to the Commission with the draft programme, instead of an obligatory requirement.

As regards the decision-making process, more flexibility in the sequencing of programming has been called for to allow draft programmes to be submitted to the Commission after Partnership Agreements (rather than at the same time), as was the case in the current period. Also in line with current practice, there is opposition to all programme revision

decisions by the Commission requiring a corresponding decision on the Partnership Agreement. Further, the scope of Commission decisions on programme approval and revision has been restricted to certain obligatory elements; and time limits have been introduced for adopting decisions.

(v) Ring-fencing

The key mechanism proposed by the Commission to ensure thematic concentration is ring-fencing of expenditure to four Europe 2020 themes: low carbon economy, SME competitiveness, R&I, and social inclusion. Different thresholds are proposed for different categories of regions, allowing more flexibility in the Less-developed category. During the negotiations, the Member States introduced additional flexibility through a range of amendments:

- adding a fourth thematic objective on ICT (i.e. broadband infrastructure) to the ring-fencing quota, mainly upon the request of France;
- broadening the proposed investment sub-priorities, i.e. including clean urban transport investments under the low-carbon economy thematic objective;
- allowing Cohesion Fund spending (on 'promoting the production and distribution of renewable energy sources' and 'supporting energy efficiency and renewable energy use in public infrastructures') to count towards the low-carbon economy quota (which would be increased to 12 percent in such cases);
- permitting the ERDF to contribute to the social inclusion and combatting poverty quota, rather than the ESF alone; and
- increasing the number of investment priorities (from four to five) in the ESF concentration provisions, for OPs covering the entire territory of a Member State.

Notwithstanding this additional flexibility, there are still concerns about the implications of the ring-fencing mechanism for the territorial approach, how the new tool will be used in practice and the appropriateness of the some of the thematic objectives in the current economic climate.

- The establishment of top-down and rigid quotas is inconsistent with the place-based rationale of Cohesion Policy, which requires flexibility to determine objectives and priorities based on the specific development challenges and potentials of the Member States and their regions (e.g. Poland).
- The ring-fencing provisions may encourage a formalistic checklist approach to programming. According to the Netherlands, it is more important to reflect on the rationale and focussing of priorities within the themes to maximise impact, e.g. supporting low carbon economy projects that reduce emissions but at the same support economic growth, innovations and technology development.

- In similar vein, there are concerns about the appropriateness of allocating 20 percent of the ESF to social inclusion in the current crisis situation, when more efforts are need to boost employment across Europe.

(vi) Joint Action Plans

Joint Action Plans represent a new instrument to facilitate financial management by results for certain projects or groups of projects (excluding infrastructure) within programmes. To increase the attractiveness of the instrument and speed of decision-making, the main amendments proposed are a reduction in the minimum investment for establishing a Joint Action Plan to €5 million (instead of €10 million); and a reduction in the time limit for the Commission submission of observations on a proposed Joint Action Plan by one month (to two months).

(vii) Financial Instruments

The Commission has proposed to reinforce the use of financial instruments in the next period. Restrictions limiting use of financial instruments to specific sectors have been removed. Ex-ante assessments identifying market failures and sub-optimal investment situations will be mandatory. A clear management framework is provided for by distinguishing three implementation options: contribution to financial instruments set up at EU level; standardised financial instruments set up at national/regional level; and existing or newly-created financial instruments set up at national or regional level. Finally, the proposals contain clearer rules on financial management, particularly to speed up disbursement to final beneficiaries; more flexible options to overcome the difficulties faced by national authorities to provide national contributions, legacy provisions to ensure re-use of returned resources in a revolving manner in line with the objectives of Cohesion policy; and strengthening of reporting, monitoring and evaluation provisions.

The main Council amendment to the Commission's proposals include provisions to ensure that financial instruments address specific market needs; that financial instruments be designed and implemented so as to be compatible with substantial participation by private sector investors; that resources paid at any time to financial instruments correspond to the amounts effectively used for investments; and regulatory stability over the programming period along with a reduction in red tape for companies and a better defined scope for the delegation of powers to the Commission.

5.2.3 Territorial development

The territorial development block includes the new framework for localised and integrated instruments (Community-Led Local Development (CLLD), Integrated Territorial Investments (ITIs) and sustainable urban development), a new networking platform for urban areas and some cross-cutting issues. The Polish Presidency had been keen to progress discussions on this block and held a technical seminar in the Structural Actions Working Party, but progress was difficult. The Danish Presidency, which focused on other aspects of the Regulations. It was under the Cypriot Presidency that the first compromise proposals and amendments were made.

Most Member States support the Commission's proposals on territorial instruments in principle. Some are less enthusiastic due to the pre-existence of domestic instruments pursuing similar aims, difficulties with the implementation of similar Structural Funds instruments in the past or because the proposed framework is considered to be administratively burdensome. There is also the challenge of delivering on time, i.e. setting up the instruments early enough in the period to allow a smooth launch and implementation.

One of the main difficulties with the draft legislation on localised instruments was that it was not very clear to the Member States what the proposals imply in operational terms. Clarification was sought from the Commission on **the operation of CLLD** in the individual funds, particularly: the type of territory concerned, the relationship between the existing LEADER instrument and CLLD, the functioning of LAGs (Local Action Groups) in Cohesion Policy and the Common Agricultural Policy. Following this, amendments were introduced to provide greater clarity and, in particular, to harmonise the provisions for different Funds. The text now states explicitly that CLLD can be funded by ERDF and ESF independently from the EAFRD.

Consideration is also being given to allowing the EARDF to fund **ITIs**, potentially involving the transfer of the current Article 99 on the ITI to the common provisions (for all Funds) part of the Regulation, following a request from Italy and UK. This would provide for the use of **integrated instruments across urban and rural territories**.

Member States have expressed concerns about excessive detail and prescription in the content of CLLD. This includes opposition to the empowerment of the Commission to define the area and population covered by CLLD strategies through a Delegated Act. By contrast, the capacity to deliver CLLD effectively and efficiently is an area that is considered to require more priority in the legislative texts. Provisions have been accordingly introduced to clarify that support to CLLD strategies may include capacity-building actions.

To facilitate the programming of **'sustainable urban development'**, several options have been proposed by the Member States. Instead of using an ITI, support could also be channelled through a dedicated OP or a dedicated priority inside an OP. The designation of a fixed list of cities in the Partnership Agreements and programmes has been opposed, as has the requirement to delegate management responsibility to cities (or other sub-regional bodies). Additionally, the text now specifies that the role of sub-regional bodies in selecting operations would require agreement between the Managing Authorities of the programmes and the respective sub-regional delegation. There is some concern that this may lead to implementation delays, given the time that it could take to get agreement between a Managing Authority and sub-regional bodies on what to fund and how to manage sustainable urban development initiatives. An alternative approach suggested by Italy is to devolve decision-making authority to the sub-regional bodies while including a series of predetermined guarantees or conditionalities, such as ensuring adequate management capacity is in place or developed. Additional conditions are unlikely to be agreed by other Member States, although it is rather striking that the draft list of ex-ante conditionalities does not contain any specific provisions for the territorial instruments (or territorial

cooperation). Yet, there is nothing to prevent the Member States and regions from introducing additional conditions through national legislation if deemed appropriate.

On the **Urban Networking Platform**, the key issue is whether it offers added value. Support from some Member States is contingent on clarification of the value that the platform will add to or complement the activities of the existing URBACT programme as well as the presentation of precise and unambiguous rules for its operation. The setting up of a new platform by January 2013 may also be difficult, raising questions about its utility at least from a programming perspective. Further, the proposal for the list of cities participating in the network to be specified in Partnership Agreements and adopted by the Commission through an Implementing Act has been rejected.

There is widespread consensus on the added value of **Territorial Cooperation**. Nevertheless, some Member States are critical about the excessive focus during the negotiations on geographical and financial eligibility issues instead of discussing important aspects of the future implementation structures. As regards the programming of ETC, some Member States are keen to retain provisions on the inclusion of the ETC goal in the Partnership Agreements, but only in general terms without binding commitments about the content of individual programmes. Finally, there are also calls for more flexibility in the provisions on thematic concentration within Territorial Cooperation programmes.

5.2.4 Performance

(i) Performance framework, review and reserve

To encourage a stronger performance orientation in Cohesion policy, the Commission has proposed a ‘performance framework’ involving the setting of targets in programmes and, following a performance review, the possibility of a financial reward or sanction depending on the achievement of the set targets.

The Member States have different views on the performance framework. Some see it as unnecessary bureaucracy and are concerned about adverse behavioural consequences, particularly the setting of artificially low targets. Others see it as a very important tool to improve effectiveness. In balancing these competing views, the Council have agreed several changes to minimise the administrative burden and provide legal certainty for the Member States on the suspension and cancellation of funds.

- First, there would be only one performance review in 2019 instead of the original proposal of two reviews (in 2017 and 2019).

- Second, there is more certainty over the timing through the introduction of deadlines for the adoption of Commission decisions on the achievement of milestones, on Member State proposals allocating the performance reserve and on Commission approval of the proposal. Timing is still a concern for some Member States, as there would be little time to reallocate the five percent to good projects before the end of the period, as a Commission decision would not come until 2020.

- Third, account is to be taken of issues relating to the effects of external events/processes on whether targets are reached, including the possibility of revisions to milestones and targets where there are significant changes in the economic environment.

- Fourth, Commission power to intervene in relation to suspension of intermediate payments and financial corrections has been limited, so that it can only focus on programmes or issues where there are major financial problems (not where there are minor problems) and when the Member State has failed to take corrective action following earlier communication with the Commission.

- Fifth, the text specifies that only output indicators or implementation steps would be taken into account in the allocation of the reserve, not results which are subject to delays and face methodological challenges in determining the contribution of Cohesion policy interventions.

(ii) Ex-ante conditionality

The Commission has proposed the introduction of a formal system of ex-ante conditionalities to ensure that the conditions for effective Cohesion policy investments are in place. The draft regulation distinguishes two types – including a detailed set of criteria for their fulfilment - in an annex to the regulation.

- Thematic conditionalities are specific to each thematic objective and relate mainly to the pre-existence of domestic strategies (e.g. on smart specialisation), the transposition and implementation of EU Directives (e.g. on water or waste), addressing EU guidelines (e.g. employment and social policy) and capacity-building activities (e.g. sufficient project pipelines in the transport sector).

- General conditionalities mainly relate to compliance with EU law (e.g. strategic environmental assessment, State aid rules etc.) and capacity-building to support compliance as well as a conditionality to strengthen the statistical systems and data for programme monitoring and evaluation.

The Council has made substantial changes to the Commission’s proposals.

- First, a definition of ex-ante conditionality has been added, specifying that there has to be a close relationship between the conditionality and Cohesion policy spending and that the conditionality must support the effectiveness and efficiency of the spending directly.

- Second, references to proportionality have been added to take account of the level of financial support allocated when deciding on conditionalities. The rationale and fairness of this change is, however, questioned by some Member States, as the underlying rationale of conditionality is to enhance effectiveness which may be necessary in both small and large programmes.

- Third, the scope for Commission action is more limited by stating that it has to respect Member State competences and responsibilities and cannot decide alone what the conditionalities should be.

- Finally, Annex IV has been revised and rationalised by eliminating references to EU rules that are already in law and do not require a parallel enforcement mechanism under Cohesion policy and by only including conditionalities that genuinely could improve effectiveness and efficiency.

Despite the introduction of these safeguards, many national policymakers are still concerned about the conditionality framework adding to the bureaucracy of programming and about the financial and political consequences of imposing sanctions if targets are not achieved.

5.2.5 Monitoring & evaluation

The approach to monitoring and evaluation proposed by the Commission for 2014-2020 is largely in line with current arrangements. Programmes would contain common and programme-specific output and result indicators with targets. Expenditure would be programmed, monitored and reported at the level of Priority axes as well as the more detailed level of categories of intervention. However, financial reporting would not only cover allocations to selected operations, but also the volume of contracts or other legal commitments entered into by beneficiaries; and the total eligible expenditure declared by beneficiaries to the Managing Authority. Another new aspect is the proposal for monitoring and reporting of support for measures to combat climate change using a methodology adopted by the Commission.

Monitoring Committees would continue to be set up to monitor and review programme progress. In line with the integrated approach, however, joint monitoring committees could be set up in the future for all CSF Funds.

Mirroring the current periodic strategic reports and annual implementation report, the key basis of information for assessing and reporting on performance would be Progress Reports on the Partnership Agreements in 2017 and 2019 and (streamlined) Annual Implementation Reports for all programmes, but only from the third year of the period (2016) onwards.

Evaluations would be carried out to improve the quality of programmes and to assess their effectiveness, efficiency and impact. The draft Regulation states that impact would relate to the mission of the respective Fund in relation to the contribution to Europe 2020 targets, GDP and unemployment. A new requirement is for an evaluation plan to be drawn up by the Managing Authority or Member State (previously this was voluntary), which should be submitted to the first Monitoring Committee meeting. The existing distinction between ex-ante, on-going and ex-post evaluations would be retained.

- Ex-ante evaluations would be carried out for each programme. An extensive list of required elements for ex-ante appraisal is specified in the draft Regulation.

- During the programming period, evaluations should be carried out for each programme on the basis of the evaluation plan. Each priority axis of a programme would be evaluated at least once. A new provision for 2014-2020 is that all evaluations would be made public.

- Ex-post evaluation would continue to be a Commission responsibility, in close cooperation with the Member States. A new requirement is for Managing Authorities to submit to the Commission by 31 December 2021 a report for each programme summarising the findings of evaluations carried out during the programming period, including an assessment of the main outputs and results.

The Council has proposed range of amendments to the monitoring and evaluation proposals, mainly to clarify competences and to increase the flexibility in reporting requirements and evaluation work. For instance, the setting up of **Monitoring Committees** and the associated rules of procedure should respect 'national rules and practice'. References to voting rights for each member of the committee have been deleted, as have provisions that require the committee to issue an opinion on programme amendments. The scope of the committee's implementation review functions has also been clarified, adding the review of 'qualitative analyses' where appropriate.

In line with current arrangements, the proposed deadlines have been extended for submitting **annual implementation reports** (end of June rather than April each year) and final reports (end of January 2024 instead of September 2023). Although the Commission has sought to streamline some aspects of the content, more flexibility has been requested, such as reporting on the fulfilment of ex-ante conditionalities in the national progress reports instead of implementation reports. Additionally, Commission observations on the reports should only relate to issues that 'significantly' affect programme implementation.

Similar changes have been made to the **Progress Report** requirements. The deadlines for submitting 2007 and 2019 report would be the end of August rather than June, while the deadline for Commission requests for further information has been shortened and a provision has been added to ensure that the focus is on issues that 'significantly affect the quality and reliability of the assessment concerned.'

The agenda-setting role of the Commission in **Annual Review meetings** has been qualified by stating that the meetings could be co-chaired by the Member State rather than chaired by the Commission. As with implementation reports and progress reports, follow-up of Commission comments given at review meetings should only concern issues that 'significantly' affect implementation.

As regards **financial reporting to the Commission**, the Member States would prefer to submit data electronically twice yearly instead of the more onerous quarterly submissions proposed by the Commission. There is also opposition to the new proposal requiring the submission of financial data on the 'costs of contracts or other legal commitments entered into by beneficiaries in implementation of operations selected for support.'

Turning to the **evaluation** chapter, the requirement to undertake impact evaluations in relation to GDP has been qualified by the Council by noting that this would depend on the size of the programme. More flexibility in the evaluation planning has been proposed by specifying that a plan may cover more than one programme. Extensions have been added to the deadline for drafting an evaluation plan (one year following programme approval rather than by the first monitoring committee meeting) and for submitting a summary report of all the evaluations undertaken at the end of the period (by the end of December 2021 instead of 2020). To ensure that the Member States are kept informed of the Commission's evaluation activity, a new provision has been added to require Commission programme evaluations to be sent to the relevant Managing Authority and presented at the Monitoring Committee.

5.2.6 Financial management, audit and control

Achieving consensus on key elements of the financial management, audit and control proposals has been delayed as many of the issues relate to the new EU Financial Regulation, for which a political agreement was not reached till the end of June 2012.

In general terms, the Commission's proposals for **streamlining and simplifying delivery** are welcomed. At the same time, many Member States consider that the Commission has not gone far enough, that the focus has been mainly on reducing burden for beneficiaries and the Commission rather than national administrators, and that, taken as a whole, the new framework would actually imply an increase in administrative burden.

Much of the criticism from national policymakers is directed at the proposed overhaul of **management and control structures**. The draft proposals involve the transfer of the Common Agricultural Policy model to all of the shared management funds by requiring national fund managers to issue annual management declarations that will be subject to independent audit. The Commission argues that this has helped to reduce the scope for errors, but many Member States are doubtful about the efficacy of the model and are highly critical of the additional burden that it implies. For instance, the Visegrád countries argue that the new structures, accreditation system and annuality would neither simplify the implementation system nor offer any real added value for programme authorities and beneficiaries. They are particularly sceptical about the annual clearance process and the associated risk of net corrections, and anticipate more administrative burden because of the need to establish new structures and the pressure of annual deadlines.

There is strong opposition to the **accreditation** proposals from many, although not all, Member States. Germany questions the right of the EU to dictate which Member State institution should be responsible for accreditation on constitutional grounds, as federal authorities do not have the legal ability to accredit *Land* authorities. Similarly, no public body in France would be in a position to take on the accreditation role and if it were assigned to a national body it could lead to political conflict with the regional councils which would be difficult to resolve. Lastly, it is argued that the accreditation process would not provide simplification for the Member States.

The optional provision to **merge Managing Authority and Certifying Authority functions** is not considered to be problematic given its voluntary nature. However, the obligatory merger under European Territorial Cooperation programmes has been opposed by the Council.

More generally, many Member States argue that the draft Regulations do not go far enough in the direction of the **single audit model**, which should involve a more proportionate division of responsibilities between national institutions and the Commission with more trust placed on national audit and control systems. How this can be done remains unclear, particularly given the reluctance of Member States to increase their political responsibility for the audit and control of Cohesion policy expenditure.

The **proportionality principle** has raised a number of contentious issues related to its underlying rationale and practical implications for audit sampling and project audits.

- As regards the rationale, linking proportionality to the financial size of a programme is not universally supported. Some Member States consider this to be unfair as it penalises larger programmes and Member States with higher allocations, when all programmes should be implemented with equal rigour. On the other hand, many Member States support this link and would like to extend the scope of application further, i.e. beyond the current proposals relating to the decommitment rule, net corrections, interruptions, suspensions, conditionalities and performance review.

- Another key issue is how to facilitate a more risk-based approach to audit and control. A priority for Germany and supported by other Member States is to allow for the possibility of using 'non-statistical methods' for the sampling of projects by the Audit Authority, rather than only statistical methods. It is argued that this would allow the Audit Authority to focus on the most risky projects without compromising on rigour. This is considered to be especially important for smaller programmes and for smaller non-risky projects. However, the Commission argues that non-statistical methods do not provide reliable and comparable information across Member States and thus undermine assurance at EU level.[87] Additionally, the Member States have argued that Commission guidance on the sampling approach should not be decided through a Delegated Act, but through an Implementing Act which is subject to 'comitology' rules and therefore provides the Council with more control over the content.

- A final aspect of proportionality relates to the burden associated with repetitive and poorly coordinated checks of projects. Building on the Commission's proposals, the Member States have increased the coverage of projects that should be subject to no more than one audit by the Commission or Audit Authority during the life of a project by increasing the threshold to investments of €200,000 instead of the lower

[87] European Commission (2012) *First Simplification Scoreboard for the MFF 2014-2020*, Draft Commission Communication, European Commission, Brussels.

€100,000 level proposed by the Commission. Further, provisions have been added to minimise duplication of audits. First, projects should not be subject to more than one audit per accounting year by ‘either’ the Audit Authority ‘or’ the Commission prior to the closure of all the expenditure concerned. Second, projects should not be subject ‘to an audit by the Commission or the Audit Authority in any year if there has already been an audit in that year by the Court of Auditors’. The Commission strongly opposes these amendments, arguing that it would ‘limit Commission audit work to an extent that ... risks undermining the Commission capacity to monitor the use of EU budget and its capability to account for it.’[88]

Greater use of **simplified costs methods** is generally welcomed. A new option has been proposed by Council for the simplified calculation of staff costs by dividing the annual gross employment cost by 1650 hours. Also, the calculation of flat rates for indirect costs has been increased to a limit of 25 percent (rather than 20 percent) of eligible direct costs. In the case of the ESF, the Council has proposed that operations below €50,000 could use flat rates as an option (rather than obligation) in addition to lump sums and unit costs.

Associated output or results-based disbursements for groups of projects through Joint Action Plans (JAPs) is seen to be potentially useful for the ESF, i.e. by simplifying financial management of training courses from different bodies where each training course is subject to separate accounting. The use of JAPs in other areas is seen as more problematic. While the Commission has suggested that the instrument could be used for research projects, some Member States have doubts about the practicality of this. There are also reported to be challenges in using JAPs because of tensions with State aid rules.

On **eligibility**, the proposed restriction of reimbursements from the Commission to payments that have been paid to beneficiaries is contentious. Several Member States have argued that this it could result in a considerable slowing down of financial implementation. The non-eligibility of VAT in infrastructure projects is also questioned.

The rules on **revenue-generating projects** have been the source of considerable frustration in the current period, i.e. the methodological requirements to calculate future revenue for certain projects. The Commission’s proposal to allow Member States to opt for a ‘flat rate’ approach instead of a funding gap analysis is a positive step forwards with the potential to streamline the implementation process. Key issues raised in the negotiations are that the provision is available and attractive for as many sectors/subsectors as possible. Amendments have also been made to promote clarity, consistency and simplification in the calculation of net revenue.

Changes to the **major projects** provisions have raised concerns in several Member States, which have called for a further streamlining of approval procedures and the possibility of inclusion of their expenditures into payment applications prior to approval. Additional obligations following the approval a major project are considered to be too restrictive and

[88] European Commission (2012) *op.cit.*

not well justified by some countries, e.g. the condition that first works contracts should be concluded within two years after the decision.

There are mixed views on the **e-cohesion** proposals, which would require Member States to allow beneficiaries to make grant submissions electronically and managing bodies to store all information electronically. There is substantial opposition to making this an obligatory requirement from a number of Member States. Austria considers the proposal to be impractical due to its highly devolved implementation system, and to be an intrusion into domestic competences especially as the main implementing bodies carry out most of their regional development interventions without EU funding. While advantages can be seen in the context of European Territorial Cooperation, where beneficiaries are required to submit extensive information, the benefits are regarded as being less clear for some mainstream programmes where project applications and approval is less prescriptive and bureaucratic. By contrast, Finland and Italy are supportive. In the Italian case, e-cohesion is seen to be in line with its recent 'Open Cohesion' data initiative for regional policy, an initiative that has gathered and released data on more than 450,000 regional development projects. Other countries view the e-Cohesion idea as good in principle but are concerned about operational challenges, including the over-specification of the technical requirements by the Commission, shared data fields, and the deadline for implementing e-cohesion, which the Council has proposed to postpone from 31 December 2014 to 31 December 2016.

The proposed creation of **Action Plans to reduce administrative burden** has been agreed with no major changes, but it will be optional so it has not been particularly controversial. Poland is keen on the idea. However, it is reported that most Member States are not intending to take this up, partly because the implications in practice are not that clear. Some Member States argue that the main priority should instead be on simplification and harmonisation of EU rules as this is where most of the administrative burden originates.

The Commission had made a considerable effort to **harmonise rules** across the five CSF Funds and more generally across EU funding streams (i.e. the possibility of simplified cost options based on the existing approach used in Framework Programmes). These efforts are widely supported by the Member States. Nevertheless, the overarching regulatory framework for the CSF Funds is considered to be incoherent and fragmented with a considerable number of inconsistencies and unnecessary repetitions across the different parts of the legislation. As noted, the United Kingdom has led a coalition of Member States calling for more alignment, consistency ad harmonisation across the General and Fund-specific regulations. Within the UK, the Scottish and Welsh regional governments have written to the Commission to express their concerns about a large amount of duplication across the regulations, particularly the CAP Horizontal and Common provisions, the Structural Funds aspects of the common provisions, and the EAFRD and EMFF regulations.

5.3 The European Parliament's position

In parallel with the negotiations in Council, the Parliament has been finalising its own position on the Commission's legislative proposals. The Parliament will be a stronger force to reckon with in the inter-institutional legislative negotiations since the Lisbon Treaty granted it full co-legislative authority with the Council over the General and Fund-specific

Regulations. The formulation and coordination of the Parliament's position has been led by the Committee's for Regional Development and for Employment and Social Affairs. A key development over the last year was the tabling of Draft Final Reports on each of the Regulations in June 2012, providing the basis for the adoption of the Parliament's negotiation mandates on each Regulation.

The European Parliament is generally supportive of the key principles underpinning the Commission's proposals. Nevertheless, the tabled amendments indicate that there are many differences to be resolved, both with respect to the Commission's proposals and the subsequent compromise amendments made in the Council. For the General (Common Provisions) Regulation, more than 2,000 amendments were proposed, out of which 148 apply to the Common Strategic Framework. The main issues raised on the policy architecture relate to:

- The focus of funding for different types of territories, notably taking into account the situation of regions with severe geographical and demographic handicaps and the outermost regions;
- concerns about the proposed transition regions category, especially if the Cohesion policy budget is cut; and
- ensuring that resources for the European Territorial Cooperation goal amount to seven percent of the total budget.

Among the key governance-related issues and proposals are:

- enhancing the partnership principle through an explicit treatment in the Partnership Agreement as well as backing for a Partnership Code of Conduct;
- the adoption of the CSF through the ordinary legislative procedure (co-decision) as an annex to the General Regulation instead of a Delegated Act by the Commission
- providing greater flexibility in the content of Partnership Contracts as well as an enhanced role for macro-regional, sea basin strategies and crosscutting priorities (such as demographic change);
- ensuring that thematic concentration does not detract from an integrated place-based approach;
- proposing a genuine multi-fund approach with full flexibility for integrated priorities and funding streams in designing programmes;
- elimination of the link between programming and country-specific recommendations to retain a long-term planning approach;
- rejection of the performance reserve and macroeconomic conditionality;
- clarification of ex-ante conditionality provisions;
- enhancing the role of local authorities in the framework of Community-led Local Development and Local Development Strategies;
- a range of clarifications regarding the provisions on financial instruments;
- enhancing the role of evaluation and monitoring in policy design and institutionalisation of ex-post evaluation reporting to the Parliament by the Commission;

In line with the above, the key amendments to the Common Strategic Framework involve:

- reinforcing the role of partnership at all stages of the implementation of the Funds
- enhancing the role of sustainable development and climate change priorities
- supporting an integrated approach to promoting smart, sustainable and inclusive growth needs while focussing on territorial specificities; and
- reinforcing the emphasis on innovation and on social protection.

Updated Draft Reports on all the Regulations were scheduled to be presented in October 2012 before final adoption in plenary. Formal inter-institutional negotiations will then be launched with the Council and Commission.

6. CONCLUSIONS

This paper has provided a review of the formal negotiations on the EU budget and Cohesion policy, following the publication of the Commission's reform proposals in 2011. The aim of this concluding section is to draw out the key themes and questions to emerge from the research.

The Eurozone crisis – a threat to European solidarity?

The context for reform has been extremely difficult due to a renewed phase of crisis in the EU amidst a slowdown in growth, a questioning of fiscal austerity in many Member States, the contagion of the sovereign-debt and banking crisis, and a slow and incomplete response to the institutional design flaws of the Euro. The increasing need for bailouts to the troubled Eurozone economies and associated calls for a pooling of sovereign debt at EU level has severely tested the solidarity between Member States and made future EU spending commitments highly contentious.

In this challenging climate, progress on the negotiation of the Multi-annual Financial Framework has been slower than planned. It is unlikely that a deal will be reached by the December 2012 deadline, although progress has been achieved on some principles and the future structure of the budget. In particular, there is Council agreement that the Cohesion budget should remain outside of the competitiveness heading, in response to the concerns of some Member States about the loss of visibility and financial stability.

Views are sharply divided across Member States and EU institutions on the headline spending figures. However, it is increasingly recognised that a Council compromise will necessitate a reduction in the budget proposed by the Commission - in response to the demands of the 'Friends of Better Spending' coalition - and that this will be borne by cuts across all policy headings.

Downward pressure on Cohesion spending – with what redistributive consequences?

As the second biggest spending heading in the EU Budget, Cohesion policy is a prime target for cutbacks despite the resistance of the so-called 'Friends of Cohesion' coalition. This raises the question of where the cuts should be made. Given the universal support for concentration of funding on Less-Developed countries and regions, downward pressure is most likely to affect the new Transition regions category - which a number of Member States oppose – and the More-Developed Regions. As in the 2005 reform debate, some net

payers may find themselves in a difficult situation of arguing for cuts in the overall budget while resisting reductions in Cohesion policy receipts that would benefit their regions. A more general issue – again as in previous reforms – is that major cutbacks to the allocations of Transition or MDR eligibility and allocations may in the longer-term reduce the support for the all-region approach and the commitment to a strong, well-funded Cohesion policy.

Several other aspects of the allocation methodology have implications for the flow of funds to particular countries and regions. The main negotiation issues concern how much weight should be given to the national prosperity coefficient for the Less-Developed Regions category or to the unemployment premium for all regions; the form and level of 'safety-nets' to moderate reductions in funding to countries and regions relative to the previous period; the fairness of the 'absorption cap' linked to levels of GDP, especially for those countries that would be financially disadvantaged due to low growth in recent years; and how much special treatment should be given to countries and regions with specific territorial challenges.

Negotiating the regulatory framework – flexibility or dilution?

In parallel with the negotiations on the MFF and Cohesion policy allocations, the legislative development of the Regulations has reached an advanced stage during 2012. The general principles and priorities of the Commission's reform proposals have remained intact during the negotiations. Some significant amendments have been made in a number of key areas with a view to providing more flexibility to Member States, although it is arguable that this has led to a dilution of the Commission's proposals.

In the area of strategic programming, a key innovation with universal support is the introduction of a Common Strategic Framework to facilitate the coordination of shared management funds. The main concern of the Council is that the CSF should not impose a strategic 'straight jacket' on the programming choices of Member States and regions, hence the proposal to adopt the CSF as an Annex to the General Regulation under co-decision and thereby ensure that Member State sensitivities are duly taken into account. The Commission has agreed to include certain elements in the Regulation's Annex, but would prefer to adopt the main substantive content – the policy actions – in a Delegated Act to ensure that the Council does not limit the degree of thematic concentration envisaged. These concerns are understandable, given the Council's dilution of the ring-fencing mechanism by adding an extra thematic objective on ICT, broadening the eligible interventions, allowing the contribution from other Funds to count towards the quotas, and increasing the number of ESF sub-priorities.

The most tangible innovation with respect to the territorial dimension is the reinforced sub-regional or local agenda through the new provisions on Community-Led Local Development, Integrated Territorial Investments and sustainable urban development. This agenda is widely supported by the Member States. The key issue in the negotiations has been the level of flexibility allowed to Member States in the programming of the territorial instruments. There has also been opposition to a weakening of the role of Managing Authorities in deciding on and overseeing the implementation of these forms of assistance.

Finally, the Member States have introduced a number of safeguards to the new performance framework. Ex-ante conditionality is defined more precisely and linked directly to Cohesion policy priorities. The need to respect national competences and minimise the burden on small programmes is now emphasised and the conditionality criteria proposed by the Commission have been rationalised. The performance review provisions have also been subject to considerable tweaking. To minimise the administrative burden and provide more security for the Member States, the Council has proposed a single assessment, more certainty over the timing of decisions, that due account is taken of external factors and to restrict suspensions and corrections to major slippages.