

Due Diligence in Contexts Affected by Conflict: EU Development Aid and Trade¹

Terri Beswick, Nabila Habbida, Lorenzo Angelini, Susanne Wander and Lorenzo Conti²

Executive Summary

Death, displacement, psychological trauma, sexual violence, divided families, homelessness and socio-political polarisation are just some of the units by which you could measure the human costs of conflict. There is global recognition and increasingly data that expose the extent of economic harm and the undermining of socio-economic development as a result of conflict. And, the relationship is not unidirectional, unequal development and economic insecurity can also contribute to violent conflict. Therefore, international actors that claim to promote development and the prevention of violent conflict must take steps to ensure that their engagements in environments affected by conflict are designed to be maximally effective and avoid inadvertently causing harm.

As a global political and economic actor that makes significant investments through development aid and trade, and has emphasised its commitment to conflict prevention and peace, there is value in assessing whether EU's development and trade relationships are underpinned by robust due diligence. This paper proposed a framework for due diligence in contexts affected by conflict. The framework aimed to examine due diligence in contexts affected by conflict from two perspectives: the EU's political responsibility to prevent violent conflict and promote sustainable development (derived from its own commitments) and its financial responsibilities to manage its resources and engagements in such a way as to maximise the effectiveness of its prevention and development goals. Despite the proliferation of EU commitments to prevention over the years, one cannot assume that policy equates with standard operational practice. Therefore this research assessed EU operational 'due diligence' according to its own operational documents (templates, instructions, guidelines), as opposed to in its policy documents.

¹ This report is part of a wider EU-CIVCAP Deliverable by the same authors, DL 3.3: 'Reports on integrating conflict prevention in CSDP, EU trade policy and EU development policy', available from: <https://eu-civcap.net/portfolio/deliverables/>. The EU-CIVCAP project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement no.: 653227.

² European Peacebuilding Liaison Office (EPLO).

Key findings

- Across the documentation analysed, there was little consistency of terminology in relation to analysis, risk assessment, and stakeholders across the various EU development and trade actors, and confusion at the abstract level risks creating confusion at the operational level.
- Calls for better context analysis of situations affected by conflict are common, but what receives less attention is the need the EU, to reflect on their own positioning vis-à-vis conflict stakeholders as part of its analysis.
- EU development policy documents make numerous references to conflict, conflict sensitivity. However, there are few clues as to how this is unpacked by EU staff at the operational level. In fact, this specificity is more likely to be called for in the templates completed by (potential) external partners, which has the effect of delegating responsibility for detailed analysis and due diligence onto (potential) implementing partners.
- Transparency and access to documents and templates can present an obstacle to scrutiny of EU due diligence in engagements in conflict-affected situations.

Considerations and policy recommendations

1. Untangle and attain greater consistency across EU instruments on the uses of similar terminology around risk, impact, dynamics, aspects and various sectors.
2. Recognise that engagement with stakeholders does not equate to an understanding or a clear mapping of conflict stakeholders.
3. Analyse the position and perceptions of the EU by the different conflict stakeholders as part of efforts to assess the risk of (in)effectiveness or inadvertent harm.
4. Explore the positive and negative interactions, which implies a more complex relationship than looking at one actor's influence on another.
5. Conduct more, and higher profile, moments of review where continuing without significant adaptation is not a given outcome, in order to generate more incentives for senior EU decision-makers to perform due diligence checks.

1. Introduction: Costs of War, Price of Peace

The human costs of conflict are undeniable. Statistics on death and destruction from various manifestations of conflict: civil war, uprisings, terrorism and election violence are broadcast daily in multiple media. Death, displacement, psychological trauma, sexual violence, divided families, homelessness and socio-political polarisation are just some of the units by which you could measure the human costs of conflict. In addition, there is global recognition (World Economic Forum, 2016; World Bank 2011) and increasingly data that expose the extent of economic harm and the undermining of socio-economic development as a result of conflict. The World Bank estimates that two billion people live in countries where development outcomes are affected by fragility, conflict, and violence (World Bank, 2017). Data collection by the Institute for Economics and Peace (IEP) showed that the global economic impact of violence was \$14.3 trillion PPP for 2016 alone, which is equal to 12.6 percent of global GDP (IEP, 2017: 70). However, the relationship is not unidirectional, unequal development and economic insecurity can also contribute to violent conflict. The interactions between conflict, peace, development and economic affairs are numerous and complex. Therefore, international actors that claim to promote development and the prevention of violent conflict must take steps to ensure that their engagements in environments affected by conflict are designed to be maximally effective and avoid inadvertently causing harm. This paper aims to propose a framework for due diligence in contexts affected by conflict.

The European Union (EU) is a significant international development and trade actor. It has about 140 Delegations and Offices located around the globe. The 2016 EuropeAid Annual Report presents the EU and Member States (MS) as the largest provider of development funding in the world in 2015, with the European Commission managing 11,270 EUR million in support of overseas development (European Commission: EuropeAid, 2016). The EU Directorate-General (DG) for Trade 2017 Statistical Guide reported that the collective EU-28 represented 537.2 billion EUR or almost 60% of the world's foreign direct investment outflow in 2015³ and had a 16.8% share of the world's trade in goods and services in 2016 (European Commission: DG Trade, 2017). The EU presents its development cooperation as a means of promoting peace and considers trade and investment as part of its development finance landscape (European Commission: EuropeAid, 2016). As well as its broader development spending and its trade influence, the EU dedicated 494 million EUR of overseas development aid on Conflict Prevention and Resolution, Peace and Security in 2015 (EuropeAid, 2016: 31). According to European Centre for Development Policy Management (ECDPM), the EU

³ Excluding intra-EU trade, the EU-28 represent 537.2 billion EUR out of 920.6 billion EUR of the world's foreign direct investment outflows.

institutions and selected EU Member States are among the biggest supporters of peacebuilding, representing five out of the top ten conflict, peace and security donors through aid (Sheriff *et al.*, 2017). At the same time, the EU has reiterated its commitment to conflict prevention and peace in treaties, policies, statements, and speeches for more than 15 years. Expertise in managing conflict and promoting peace is presented as an intrinsic characteristic of the European Union project, notably winning the EU the Nobel Peace Prize in 2012 "for over six decades contributed to the advancement of peace and reconciliation, democracy and human rights in Europe".

The following table presents some key EU policy documents in relation to conflict prevention and peace:

2001	Communication on Conflict Prevention
2001	EU Programme for the Prevention of Violent Conflicts (Göteborg Programme)
2002	Council Conclusions on the Implementation of the EU Programme for the Prevention of Violent Conflicts
2003	European Security Strategy: A Secure Europe in a Better World
2006	Communication: A Concept for European Community Support for Security Sector Reform
2007	Communication: Towards an EU Response to Situations of Fragility
2007	Council Conclusions on Security and Development
2007	Council Conclusions on an EU response to Situations of Fragility
2009	Treaty of Lisbon, Article 21(c)
2011	Council Conclusions on Conflict Prevention
2011	Communication on the Agenda for Change
2012	Communication on the EU Approach to Resilience: Learning from Food Security Crises
2013	Joint Communication on EU Comprehensive Approach to External Conflict & Crises
2015	Joint Communication on Capacity-building in support of Security and Development
2015	Strategic Review - The European Union in a Changing Global Environment
2016	Joint Communication: Elements for an EU wide Strategic Framework to support Security Sector Reform
2016	A Global Strategy for the European Union's Foreign and Security Policy

These are in addition to commitments to the 2030 Agenda for Sustainable Development made in 2015, the further policy commitments on peaceful and inclusive societies in the 2017 European Consensus on Development (which represents the EU's implementation response to the 2030 Agenda for Sustainable Development and the Sustainable Development Goals), and another commitment to long-term conflict prevention in the 2017 EU Joint Communication: A Strategic Approach to Resilience in the EU's External Action.

Despite this written track record, the EEAS Strategic Review of 2015 found that concepts such as conflict prevention, peacebuilding, root causes have generally not translated from the policy to operational level (EEAS, Strategic Review, 2015). Therefore, even with the proliferation of EU commitments over the years, it would be imprudent to presume that this equates with standard EU operational practice. The aim of a due diligence framework at this juncture is to gradually shift the focus from the EU's written commitments on conflict prevention and peace towards the manifestation of these commitments in practice. As a global political and economic actor that makes significant investments through development aid and trade relationships and one that has emphasised its commitment to conflict prevention and peace, there is value in assessing whether the EU's development and trade relationships are underpinned by robust due diligence.

The study examined due diligence in contexts affected by conflict from two perspectives: the EU's political responsibility to prevent violent conflict and promote sustainable development (derived from its own commitments) and its financial responsibilities to manage its resources and engagements in such a way as to maximise the effectiveness of its prevention and development goals. This reflects both a commercial and legal perspective. The legal usage of due diligence, referring to: *"the care that a reasonable person exercises to avoid harm to other persons or their property"* (Merriam Webster, 2017), aligns with a 'do no harm' principle and human security. Commercial due diligence aims to determine the viability of a business plan in a specific market context and in light of a business' competitive position (Price Waterhouse Coopers, 2017; KPMG, 2017), and relies on sufficient research and context knowledge to make an assessment of likely success or viability. For development assistance, this success is translated as the EU's stated goal of "promoting the European core values of peace, security, sustainable development, poverty reduction, and human rights worldwide" (European Commission: EuropeAid, 2016: 6).

Synergies between development aid, trade, conflict prevention and peace are easy to imagine at an abstract, strategic level, but become more difficult to realise at operational levels, working in complex conflict-affected contexts. It is difficult to overstate the multiplicity of links that exist between economic, development and

conflict dynamics. There are variables such as: relative and absolute levels of wealth and poverty; the degree or nature of unemployment; the strength of trade interdependence; the distribution and management of natural resources and their benefits in the national economy. Then there are the political relationships, networks, relative levels of influence and power in different governance contexts and sectors intertwined with these. Any engagement that touches on the economic activities of the actors in the conflict, the economic policies pursued by political authorities, the way resources and economic structures function and other factors besides, can all contribute to shaping the conflict itself.

The report will take an exploratory step in assessing how EU development and trade seeks to resolve this by examining the operational 'due diligence' undertaken in the design, implementation and evaluation of different development aid and trade modalities. This report assessed operational documents (templates, instructions, guidelines) against a framework of five proposed elements of due diligence in situations affected by conflict. The analysis is drawn from EU operational documents and processes, as opposed to EU policy, with the aim of assessing how policy commitments on conflict prevention and peace have manifested closer to EU practice.⁴ The paper is structured in the following way: a literature review (2), followed by an overview of the research methodology (3), a presentation of the detailed results (4); an analysis of key patterns across the development and trade documents (5) and finally, the conclusions (5) which present the main messages arising from the research study and a few key overarching policy considerations. An overview of the development and trade instruments examined and the sources consulted is presented in Annex I.

2. Trade, Development and Conflict: A Review of the Literature

Due diligence implies an obligation to provide information (on the one side) and to conduct research (on the other) in order to manage ex ante risks as far as is reasonable. The idea of doing what is reasonable could be described as one of the core semantic components of the term. DG Trade's description in the EU regulation on Conflict Minerals, which describes due diligence as "acting with reasonable care and investigating an issue before making a decision" in (European Commission: DG Trade, 2017). The term due diligence emerged in the aftermath of the great depression in the US, within the 1933 Securities Act, signed into law by President Franklin D. Roosevelt

⁴ As such, document requests were sent to Heads of Unit and policy officers within DG DEVCO (for the European Development Fund, the Development Cooperation Instrument, and the European Instrument for Democracy and Human Rights), DG NEAR (for the European Neighbourhood Instrument), DG TRADE (for trade relations), and FPI (for the Instrument contributing to Stability and Peace).

and aimed at improving the confidence of investors by creating obligations for greater transparency of information and liability. Whilst the term itself appeared only in 1930s America, the concept can be recognised as more fundamental. It variously describes research and analysis in relation to a company's financial situation; vendor due diligence, which describes research before purchases such as homes; in civil law, due diligence reflects the idea of reasonable care in anticipating and taking steps to prevent harm; and Barnidge (2006) offers a thorough discussion of the notion and evolution of a due diligence principle in international law.

There are good reasons to single out development and trade engagements for special attention with regard to due diligence, not only because of the significant contribution of the EU in both areas, but also due to the history of international engagement in these areas. For much of the second half of the 20th century, the field of development was dominated by paradigms that viewed solutions to development issues as being fundamentally technical and apolitical in nature. By the late 1980s and early 1990s, however, the limits of these approaches had become patent. The differences in political contexts were a major reason for widely differing outcomes and effects of development programming, and internal political dynamics could either hamper or distort the implementation of the technical solutions with unintended, negative consequences. Security and development are closely interlinked and mutually reinforcing. But the meaning of security in the term, 'security-development nexus' is rarely unpacked. In the contemporary context, the increasing EU securitisation of EU external action has not gone unnoticed (Sheriff *et al.*, 2017; Furness and Gänzle, 2012; Nyheim, 2015; Nyheim *et al.*, 2017). The question is whether the security-development nexus is interpreted as the need to address the human security of the populations in third countries in order to support development; or, whether it means a redistribution of development cooperation in favour of top-down national security priorities of third country governments and/or security priorities that serve EU domestic interests.

Despite the renewed impetus for economic solutions to conflict driven by the 2011 World Development Report on Conflict, Security and Development, the risks of a reductive conflation of economic growth with peace were already known. In 2006, Gunduz and colleagues warned that "[s]imply stimulating growth in an economy which may be characterised by structural injustices, horizontal and geographic inequalities, corruption and patronage may only succeed in reinforcing or reigniting violent conflict" (Gunduz *et al.*, 2006: 3). For example, foreign direct investment can spur economic growth and reduce incentives to engage in violence, but it can also benefit specific groups over others and contribute to rising tensions between them. Private sector actors can contribute to building peace, for example, through rebuilding infrastructure or employing former combatants, but some forms of trade can serve as negative drivers of conflict, as highlighted by DG Trade, which singles out conflict minerals as a "source

of income [that] helps perpetuate armed conflict, violence and human rights abuses” (European Commission: DG Trade, 2017).

A rationale for greater due diligence in development and trade engagements in conflict-affected environments is also linked to the contemporary context of European domestic politics. A protracted economic crisis, austerity, and a resurgence of nationalist discourse in many EU MS has put pressure on aid budgets, fed EU donor and taxpayer aid fatigue, and stoked isolationist viewpoints. Like all contemporary foreign policy, the EU’s common foreign and security policy (CFSP) and external action is increasingly subject to real-time, transnational, multimedia, multilingual and popular scrutiny by various publics, both within and outside Europe. Furthermore, this type of public scrutiny is less likely to be confined to what the EU states in its official policies and rhetoric, and more likely to be assessed according to its practice. Therefore, the issue of accountability is central. For EU citizens and taxpayers, more rigorous due diligence (and being seen to conduct rigorous due diligence) can create more accountability, more confidence and greater clarity on what can be reasonably expected in terms of impact when the EU engages in complex and high-risk contexts, such as those affected by conflict. It is not simply a question of auditing, better regulation, results frameworks and efficient funding disbursement. Due diligence deals implies broader and deeper research and analysis to derive more context-specific and convincing rationales for the EU’s choice of development and trade engagements. Good due diligence provides a way for the EU to present a convincing narrative for exactly how and why their engagement will overcome the complex and specific obstacles in the context to result in a positive impact on peace or development.

This is not the first reference to due diligence in a policy context. Perhaps due to its origins, states and other international actors first embraced the idea of applying due diligence in an international policy context to regulate (on a mandatory or voluntary basis) the activities of state or private sector actors. The OECD’s Guidelines for Multinational Enterprises refers to due diligence as a process for enterprises to “identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management” (OECD, 2011: 23). Human rights due diligence (HRDD) sprung from the Guiding Principles on Business and Human Rights (UN, 2011), promoting a ‘do no harm’ perspective. Due diligence in relation to conflict, was most notably outlined in the 2010 UN Global Compact’s Guidance on Responsible Business in Conflict-Affected & High-Risk Areas (UN, 2010). The Guidance emphasises the particular challenges in conflict-affected countries and encourages companies to: “take adequate steps to identify the interaction between their core business operations and conflict dynamics and ensure that they do no harm”; to “adapt existing due diligence measures to the specific needs of conflict-affected and high-risk contexts”; and to “take a broad and inclusive approach

towards stakeholder engagement” (UN, 2010). In each of these reports, however, the primary responsibilities are aimed, not at governmental actors, but at creating obligations for actors in the private sector. This has also been the case for the few examples of EU due diligence, such as due diligence obligations on operators in the 2013 EU timber regulation, which requires companies to follow a rigorous OECD framework of annual reporting. The EU conflict minerals regulation presents similarly robust requirements, with third-party independent auditing of the due diligence process. In contrast, there are few, if any, EU due diligence references that place responsibility on those working within the EU itself.

In this study, due diligence is understood from both a legal and commercial perspective. Legal due diligence has an external logic; putting the spotlight on the EU’s responsibilities or duties to others, plus the liabilities incurred through failure to attend to those responsibilities. The EU’s Global Strategy (2016) reiterated such commitments on human security of populations in third countries, the responsibility to protect, and international humanitarian law. Due diligence as it refers to commerce, is more often framed in terms of internal accountability to those who are risking their financial resources, in this case, Member States, but also EU taxpayers. A commercial due diligence perspective is more than the efficient management of finances, it requires that decisions regarding financial relationships take account of the risk of loss of financial resources, the likelihood of impact in complex, high-risk contexts (such as those affected by conflict), and the risk that more financial resources would be required if a conflict escalates or spreads. Reaching a reasonable understanding of the political, economic, social, environmental and security aspects of contexts affected by conflict, and awareness of the full spectrum of (international to local level) stakeholders and their interests is a precondition for due diligence.

In practice, the type of research and analysis foreseen by a due diligence framework for conflict-affected contexts is not wholly absent in development and trade engagements by foreign policy actors in conflict-affected contexts. In the private and public sectors, analysts and institutions have come to accept the value of carrying out context (and conflict) analysis as part of the work to plan, design, monitor and evaluate development and trade engagements. Indeed, adapting them to the specificity of the political and economic contexts in which they are deployed and implemented is likely to improve their effectiveness and efficiency and to limit their potential negative effects. In light of this, international actors active in the fields of development aid and trade have turned to frameworks and studies that can roughly be grouped under Political Economic Analysis (PEA) and Conflict Analysis.

PEA studies shed light on issues of governance and on the role played by structural contexts, by power relations and by stakeholder agency on the implementation of

political, governance, economic and financial reforms by national authorities. Since relevant stakeholders can operate at the international, regional, national and/or local levels, multi-level analyses often have to be carried out to properly understand the complex political and economic environments in which development actions are deployed. The value of PEA in the context of development efforts and trade partnerships is evident. Their particular focus has often been on the economics of development, examining the interests of stakeholders, the (often economic) incentives that are relevant to them, and the way they can shape the implementation of development programmes. Notable examples of frameworks and studies include the Drivers of Change (2003) approach developed by the UK's Department for International Development, the Swedish International Development Agency's Power Analysis (Pettit, 2013), the Dutch Ministry of Foreign Affairs' Strategic Governance and Corruption Analysis (Clingendael Institute, 2007), and the World Bank's Problem-Driven Governance and Political Economy Analysis (Fritz *et al*, 2014).

The aim of conflict analysis is to provide in-depth insights into the actors, causes, drivers and dynamics of existing or potential conflicts. It is at the core of the principles of conflict sensitivity, which involves (1) understanding the political and conflictual context in which a given intervention is to be undertaken, (2) understanding the full interaction between the intervention and the context (the entire range of consequences of the intervention on the context and vice-versa), and (3) acting on these understandings (obtained through conflict analysis) to ensure the intervention does not have negative effects (the 'do no harm' principle) and maximises positive effects. Of course, the integration of the insights produced by analysis frameworks into policy and practices can be challenging, especially if they are not used systematically and upstream of programme design decisions. The need to work *on* conflict because one is engaging in development efforts *in* conflict-affected contexts is now widely acknowledged by international donors and organisations (European Commission, 2015a).

Given the potential unintended consequences that any engagement might have in a situation of conflict, exercising appropriate due diligence in an ongoing manner before, during and after any action is both reasonable and arguably, necessary. It is the minimum that can be expected of any party (state or private) that wishes to avoid impacting the situation adversely through its actions, and it makes sense both with regards to the effective accomplishment of its objectives and with regards to its responsibility to avoid doing harm. The fact that conflict analysis and political economy analysis are somewhat established as tools among international development donors, including the EU, lays the foundation for greater due diligence in contexts affected by conflict. The question that remains is, therefore, whether these are used systematically by all EU actors during decision-making and throughout cycles of implementation of EU development (in DG DEVCO and DG NEAR) and trade (in DG Trade).

3. Methodology

The aims of the study are to put forward a framework for due diligence in situations affected by conflict and to establish the status quo regarding operational guidance in two significant areas of EU external action: EU trade and EU development engagements. In order to do this, the study assessed operational documents (templates, instructions, guidelines, *see Annex 1*) against the five elements of a proposed due diligence framework. In focusing on operational documents and processes, as opposed to policy documents, the goal is to provide a foundational analysis of how policy commitments regarding conflict prevention have moved one step closer to EU practice. While recognising that the EU is not an uncomplicated ‘whole’, it is beyond the scope of this paper to evaluate all EU development and trade actors across the 28 Member States, and so the study has focused on key Brussels-based institutions and instruments. The documents or processes were assessed according to the obligations placed on staff to perform each dimension of the due diligence checks (components 1-5). As such, researchers looked firstly at whether each component was mentioned at all or to what extent; secondly whether the processes referenced conflict relevance or conflict sensitivity language; and thirdly, how systematic the process was. The latter aimed to ascertain whether this diligence could be considered obligatory – and therefore ‘due’ – or whether it was only recommended practice, left to the discretion of EU staff.

Although the study will focus on operational guidance documents, rather than policy-setting documents, this should not be equated with practice as guidance may not translate into consistent implementation. The availability of operational guidance documents and templates was also found to vary across institutions and instruments. As a consequence, document requests were an important part of the methodology, and provided the study with two levels of analysis: first and foremost, analysis of the content of the operational guidance documents according to the due diligence framework for conflict-affected situations, and a secondary analysis of accessibility and transparency on the EU’s due diligence efforts, which is also relevant for due diligence.

Another challenge was the significant imbalance in terms of instruments covering EU development versus EU trade. EU development is implemented through a wide range of instruments, and therefore a selection was made that covered the main instruments of development programming and those most likely to be applied in contexts affected by conflict. As such, the European Development Fund (EDF), the Development Cooperation Instrument, the European Neighbourhood Instrument (ENI), and the European Instruments for Democracy and Human Rights (EIDHR) were identified to cover a wide range of geographical contexts, and to make due acknowledgement of the fact that the

EU's thematic contributions on democracy and human rights may also reveal examples of good practice in terms of due diligence in contexts affected by conflict.

In contrast, EU Trade does not have the same diversity of instruments with different regulation and therefore guidance documentation. The analysis also reflects the fact that EU trade has traditionally remained distinct from other external policy areas of the EU (such as development, and humanitarian aid) as DG Trade has an explicit mandate to prioritise benefits for the EU in its trade relationships in contrast with other external DGs and services of EU external action that are viewed as placing a greater emphasis on beneficiaries in partner countries. Nonetheless, the European Commission (EC) Communication: Trade for all (European Commission 2015c) and the EU Global Strategy for the European Union's Foreign and Security Policy (2016) have signalled an attempt to bring EU trade policy closer, requiring that "all aspects of EU external engagement [...] take conflict prevention into account (European Union, 2016: 48).⁵

There was also a decision to include the Instrument contributing to Stability and Peace (IcSP) and EU Trust Funds in the study. As with the case of the EIDHR, although these instruments are not administered as pure development instruments, they do represent EU efforts to contribute to development and peace. The IcSP has the explicit mandate for supporting conflict prevention and peace and the establishment of EU Trust Funds have largely occurred as a response to conflict. Therefore, disregarding these modalities would disregard an important mechanism through which the EU could be said to operationalise its best practice for due diligence in conflict-affected contexts. As a result, it was decided to include these two additional modalities in the methodology with the hope that good practices might be identified that might have value in more traditional development instruments and in the EU's trade engagements.

⁵ "[M]aking all our external engagement conflict- and rights-sensitive" in the European Union Global Strategy (2016), p. 48.

4. Analytical framework

This section introduces five components that constitute a proposed framework for due diligence in conflict-affected situations:

1	Does the document or process require staff to analyse the political, economic, social, environmental and security aspects of the context and link that analysis to specific risks for violence?
2	Does the document or process require staff to map / understand the full spectrum of conflict stakeholders at various levels (including non-state actors and populations)?
3	Does the document or process require staff to reflect on the position and perception of the EU vis-à-vis the conflict stakeholders (including allies / spoilers) and the dynamics?
4	Does the document / process require staff to describe the potential positive and negative interactions between the instrument of engagement and the conflict dynamics in that context?
5	Does the document / process require staff to reflect on whether this instrument – given the analysis – is appropriate and able to meet conflict prevention and/or peacebuilding objectives?

The framework aims to incorporate core elements of PEA and conflict analysis methodologies (Component 1 - Analysing risks and dynamics of conflict in a broad range of sectors and Component 2 - Mapping the full spectrum of conflict actors and stakeholders, and linking both to credible theories about how violent conflict has or might escalate). In addition to gathering information on the context, the framework also aims to incorporate the type of reflection that would be found in due diligence processes. For example, reflection on the interaction between the context and the actor proposing to enter that context, in this case, the European Union through its development or trade instruments. Thus, Component 3 asks staff to consider the ‘market position’ of the EU in the sense of how the different conflict actors and stakeholders at different levels might view and react to the activities or goals that the EU is pursuing through its instruments. Component 4 is one step further, asking staff to reflect concretely on how those (positive or negative) reactions by different conflict actors and stakeholders to the EU activities will ultimately affect the likelihood of (de-)escalation of violence. (This would, in a commercial setting, represent the likely steps taken by competitors or partners in response to entering into a market context.) Finally, Component 5 asks staff to think strategically, like an investor, in deciding whether the EU should – in light of the due diligence analysis – (continue to) pursue its development or trade engagement, and if so, under what conditions.

Together, the components represent what the EU could do in order to meet due diligence responsibilities when engaging in environments affected by conflict, both in terms of commercial (the ability to meet its intended goal and be cost effective) and legal (contributing to peace, prevention and doing no harm). Each component is discussed in detail below. The framework of five components was used to analyse operational guidance documents and processes in order to determine whether they meet the criteria for due diligence.

1. Does the document / process require staff to analyse the political, economic, social, environmental and security aspects of the context and link that analysis to specific risks for violence?

Conflict can envelop everything around it, making it difficult to draw a boundary around it. As such, conflict analysis best practice is to analyse root causes, stakeholder and dynamics across multiple sectors, not only security. As due diligence is about managing risk, for those inside and outside the EU, calculating risk, scenario-planning and mitigation strategies have to be based on a broad-ranging and multi-layered analysis. This is not the same as providing discrete analysis of the situation in each sector. It can only serve as a basis for due diligence if the analysis of the sectors looks specifically at how they are linked to violence, whether by actor relationships, financial flows, resources, or social or political ties. This type of analysis supports due diligence by enabling analysts to anticipate which of these interlinkages will be affected by an intervention.

2. Does the document / process require staff to map / understand the full spectrum of conflict stakeholders at various levels (including non-state actors and populations)?

In business terms this would be the equivalent of ‘knowing the market’ and its players. Conflict ecologies are a complex web of stakeholder relationships at various levels, across sectors, formal, informal, and everything in between. Conflict stakeholders specifically encompass those that are affected by conflict and those active in the conflict, also stretching to those engaged in responses to the conflict, as these alter conflict dynamics. Therefore, talking about ‘stakeholders’ without mentioning conflict is not sufficient. It is important to distinguish between stakeholders, conflict stakeholders, and other cleavages in society. Though these categories are not clear-cut and groups of stakeholders overlap, this does not make conflict stakeholders synonymous with labels such as ‘vulnerable groups’, ‘civil society’, ‘local actors’ or ‘communities’.

3. Does the document / process require staff to reflect on the position and perception of the EU vis-à-vis the conflict stakeholders (including allies / spoilers) and the dynamics?

This aspect of the due diligence criteria in situations affected by conflict is likely to be less visible in operational guidance as it is more likely to be factored in at the stage of strategic decision-making. Nonetheless, the assumption that this reflection only needs to take place at the initial step of an instrument cycle disregards the dynamism of conflict contexts. Fast-evolving conflict settings can mean that an EU action, such as a statement from headquarters, can for – better or worse – have an impact on perceptions of the EU in a country. One example is international attention and positioning – including that of the EU – on human rights violations in Rakhine State in Myanmar/Burma, which has the potential to affect the EU’s ability and credibility to engage with other actors on this and other conflicts in the country. Therefore, the need to be able to reflect and adapt is not only a concern for the initial strategic decision to deploy certain instruments, but also for working-level staff.

4. Does the document / process require staff to describe the potential positive and negative interactions between the instrument of engagement and the conflict dynamics in that context?

This could be translated as conflict sensitivity with a robust theory of change. As with all of the components of the due diligence framework, the logic is to maximise effectiveness (business due diligence) and to avoid harm (legal due diligence); ideally both. The presumption that a positive action translates into a positive effect is simplistic in a situation affected by conflict, which is why a state-building logic – with its assumptions about the role and behaviour of a state – can be so problematic. Arguing that state actors *should be* best placed and willing to reduce / prevent conflict makes such engagement a state-building based on an ideal, not a conflict response, based on a less-than-ideal reality. This distinction is particularly relevant when the actual behaviour and capacity of the government in the context makes a positive role for state security actors problematic. The first step to assessing whether an action will truly contribute to prevention efforts or build peace is if staff are given the opportunity to reflect on the potential intervention-conflict interactions, which could include at least an informal exercise in scenario-building. The EU Staff Handbook on Operating in Situations of Conflict and Fragility elaborates these different ways of working as the difference between working in conflict, around conflict or actually on conflict (European Commission, 2015a: 10), and states that the EU does not advocate working around conflict.

5. Does the document / process require staff to reflect on whether this instrument – given the analysis – is appropriate and able to meet conflict prevention and/or peacebuilding objectives?

As with due diligence Component 3, this aspect of the due diligence criteria is more likely to have been factored in at the strategic or political decision-making stage. But could also serve as valuable input into the monitoring and mid-term review process, allowing failing interventions to either be abandoned or adapted. Due diligence is not research and analysis in a vacuum, it is undertaken for the sole purpose of making decisions or modifying actions to make them more prudent or to better align with standards to avoid harm. The purpose of this step is to create a moment to consider which type of engagement is best suited to achieving the objective, given the context dynamics, conflict stakeholders, EU position and leverage (i.e. the four previous due diligence components). Stipulating that EU staff are obliged to consider or reconsider whether the means (instruments) are best suited and most appropriate to achieving the ends (development / trade / conflict prevention / peacebuilding objectives) is a natural conclusion for a due diligence process, as a final ‘check’ in advance of action. The question is whether EU staff (in this case senior decision-makers) are genuinely open to adapting the means in order to achieve the objective, as public institutions are often criticised for allowing adherence to procedure, regulation and status quo to override the fulfilment of their mission.

5. Results and Analysis

5.1 General findings

What is clear is that there is an astounding patchwork of EU guidelines, instructions, templates, logistical frameworks, and indicators, not to mention guidance on a growing number of cross-cutting issues. In addition to instrument-specific or Directorate-General-specific documents, there are thematic shaping documents, such as the 2015 EU Staff Handbook on Operating in Situations of Conflict and Fragility. This document represents the most comprehensive and detailed guidance in terms of its explanation of the relationship between EU engagement and the impact on situations affected by conflict. Other key thematic operational documents relevant for conflict analysis and design of responses are the EU Guidance Note on Conflict Analysis (EEAS and European Commission, 2013) and the Joint Staff Working Document: EU Conflict Early Warning System: Objectives, Process and Guidance for Implementation (EEAS and European Commission, 2016a).

5.2 Results

The following sections present the results according to each element of the due diligence framework in situations affected by conflict.

1. Does the document / process require staff to analyse the political, economic, social, environmental and security aspects of the context and link that analysis to specific risks for violence?

Development

Regulation No. 230/2014 of the 11th European Development Fund (EDF) stresses the importance of programming in situations of crisis, post-crisis and fragility, as well as paying attention to conflict prevention and resolution. However, as might be expected from a strategic decision-making document, the regulation does not offer further detail on what this means for analysis. The research was unable to identify references to a concrete process or template for EDF or the Development Cooperation Instrument (DCI) that included analysis of the context across all these dimensions as a prerequisite in programme design, project implementation, monitoring or after-action evaluation. References to this breadth of analysis are similarly absent for the EIDHR. The 2014-17 multi-annual indicative programme (MIP) only specifies policy analysis and analysis contained in an EU Human Rights Strategy. In contrast, the 2016 DG NEAR Guidelines on Linking Programming, Monitoring and Evaluation for the European Neighbourhood Instrument (ENI) does require programme staff to look at the long-term effects of a development intervention on social, economic, environmental and political dynamics, focused on countries affected by conflict, which suggests that some form of context analysis that covers all these dimensions is foreseen.

The Risk Management Framework (RMF) set out in the Budget Support Guidelines (European Commission 2012) is used to determine and then regularly monitor the risks arising from Budget Support. A questionnaire is jointly completed between the EU Delegation and headquarters that requires staff to provide an assessment of political, macroeconomic, developmental, public financial management (PFM) and corruption/fraud (European Commission 2012). It does aim to deliver a broad context analysis, including a specific risk assessment of insecurity and conflict, under the 'Political' heading. However, one limitation is that it has overlooked social and environmental risks. Nonetheless, unlike many of the funding instruments noted above, the RMF is an obligatory part of developing State-building and Sector Reform contracts, which may reflect the greater emphasis placed on due diligence when EU funds are being transferred directly to partner governments.

IcSP

References to analysis in the IcSP Annual Action programme (European Commission, 2017) are frequent and include citing the EU Early Warning System for conflict prevention (EWS) as a source of risk assessment, which covers ten risk areas for conflict.⁶ More detailed analysis criteria are also noted in the manual on Outcome Indicators for the IcSP (European Commission, 2016a), recommending that staff analyse the political, economic, social, environmental and security aspects of the context during the design phase and as part of monitoring. Moreover, it also asks them to make the link to specific risks of violence.⁷ Overall, IcSP processes contain far-and-away the most specific and concrete requests to EU staff in terms of the breadth areas covered in a context analysis, although it must also be said that it remains just that: a request; the Manual of Outcome Indicators for the IcSP represents recommended rather than obligatory due diligence.

Trust Funds

As a relatively recent phenomenon, a lot remains unknown about processes within and around the management of EU Trust Funds, which is further complicated by different operating practices for different funds. In the case of the Madad Fund, which establishes conflict-sensitive approaches that take into account as a core requirement (European Commission, 2014),⁸ the selected Action Documents that were consulted included both a context and sectoral context analysis, though without specifying what would be included, presumably giving discretion to the pen holder. An earlier analysis of EUTF has already noted the lack of detail about conflict analysis in Constitutive Agreements and the possibility that a fast and flexible approach could create negative incentives for robust country and sectoral analysis (ECDPM, 2015: 12).

Trade

For EU trade relations in situations affected by conflict, DG TRADE's sustainability impact assessments (SIAs) are the closest thing to a broad-based analysis that could be linked to specific risks for violence, as they aim to cover potential economic, social, human rights and environmental impacts that an agreement could have (European Commission, 2016b: 5). However, political impacts are notably absent from this list and security features as a subcategory of 'social', which is one of five 'recommended' themes (European Commission, 2016b: 6). In addition to a Handbook, the Commission published

⁶ EWS Risk Assessment, The Checklist for Structural Risks of Conflict covers: Legitimacy, Rule of Law, Security, Intergroup Relations, Human Rights, Civil Society & Media, Society, Climate Change & Disasters, Economic Performance, Regional Stability.

⁷ In addition, implementing partners are asked to provide risk analysis, ideally covering physical, environmental, political, economic and social risks in the template of IcSP concept notes.

⁸ Decision No. C(2014) 9615.

Guidelines on Analysis of Human Rights Impacts in Impact Assessments for Trade-related Policy Initiatives in 2015.⁹ Despite references to impacts that are relevant in situations affected by conflict, such as income inequalities and vulnerable consumer groups (European Commission, 2016b: 20), there are no explicit references to conflict or to adaption in the case of conflict-affected situations. This is surprising given that EU trade relations have been established with countries and regions that are most certainly affected by conflict, for example ongoing negotiations towards the EU-Tunisia Deep and Comprehensive Free Trade Area. What is more striking is that the SIA for Tunisia published in 2013 includes 216 pages of assessment without mentioning conflict or providing a political analysis of the context following the 2011 revolution (ECORYS, 2013).

In sum, trade is the exception, within which the Handbook for SIA (European Commission, 2016b) never makes reference to situations affected by conflict, but does foresee the possibility of including security as part of measuring potential social impact. In contrast, most of the documents associated with development funding instruments that were consulted did include language relating to conflict and the need to be responsive to conflict situations. For example, the ENI 2014-20 Programming Instructions (EEAS, European Commission, n.d.: 8) call for in-depth analysis of root causes as a prerequisite in the programming process, which is the strongest obligation. The IcSP represents good EU practice in terms of its specificity, which would be expected from the only dedicated instrument for prevention and peacebuilding-specific activities. Yet, even there the language is couched in terms of recommendations in a manual, or as an ideal rather than expected input in the concept note for partners. The most comprehensive reference and detailed reference to an analysis framework is featured in the EC Guidance Note on Conflict Analysis (European External Action Service, 2013), although such analysis is not embedded as a mandated step in any of the reviewed EU instrument guidance. This reflects one of the key weaknesses in how conflict and conflict sensitivity is unpacked with regard to broad sector context analysis, which is the extent to which instructions are laid down as obligations. Other weaknesses observed are the variety of different terminology / scope / phrasing across different instruments and the specificity of instructions around how to link analysis to conflict dynamics or specific risks for the emergence of violence.

⁹ "Analysis of the possible human rights impact of a trade-related initiative should look at the potential impact of the proposed initiative on human rights in both the EU and the partner country/ies, and should include consideration of civil, political, economic, social, cultural and core labour rights." p. 5

2. Does the document / process require staff to map / understand the full spectrum of conflict stakeholders at various levels (including non-state actors and populations)?

Development

Although Regulation No. 2015/322 of the 11th EDF calls for analysis of key stakeholders, this does not automatically translate as an analysis of conflict stakeholders in the case of situations affected by conflict. The more operational guidance in the instructions for EDF and DCI 2014-2010 programming only recommend a consultation process with civil society, social partners, private actors – again, without mapping conflict stakeholders where relevant. EIDHR is also silent on staff analysis of stakeholders in situations affected by conflict specifically. Though a more detailed stakeholder reflection is featured downstream in the concept note templates for implementing partners, where they are asked to consider “if applicable; other possible stakeholders (national, local government, private sector, etc.), their anticipated role and/or potential attitudes towards the project.” (EIDHR Concept Note Template: 2009). In the case of ENI, requirements for a ‘stakeholder mapping’ is, in fact, oriented towards potential partners or allies, such as “parliamentarians, regional and local authorities, academia and cultural stakeholders” as part of the inclusive approach of the Regional South Strategy Paper (2014-2020) and Multiannual Indicative Programme (2014-17:11). Therefore, it appears that none of the three main development instruments calls for mapping or understanding of conflict stakeholders in their operational guidance for staff. The Budget Support Guidelines (European Commission 2012: 101) do not set out conflict stakeholder mapping as a requirement, but they do require staff to reflect on “key political opportunities and constraints to the reform process” as part of public financial management in Statebuilding Contracts. This is unpacked as “champions, entrenched resistance, sectoral interests, conflicts etc.” Budget Support Guidelines (European Commission 2012: 101), which at least partially encourages greater awareness of conflict stakeholders and their roles and relations in this sector of intervention.

IcSP

The Manual of Outcome Indicators for the IcSP (TRANSTEC 2016: 96) calls for a general stakeholder analysis to take place in addition to conflict or context analysis; recognising the need to identify all relevant groups involved in the conflict, their perspectives and how they relate to each other. In discussing how to mainstream conflict sensitivity, the Manual affirms that “project activity or management practice might negatively impact stakeholders’ interests (justified or not)” (TRANSTEC 2016: 87), which implicitly suggests an understanding of conflict stakeholders as a necessary precondition.

Trust Funds

As with the IcSP above, references to “beneficiaries and target groups” (Madad Fund, n.d.: 3) in the context of the Madad Fund implies an understanding or mapping of relevant conflict stakeholders in order to identify strategically relevant beneficiaries and target groups in a context that is entirely shaped by complex conflict dynamics. Nonetheless, the same potential issues exist for stakeholder mapping as for due diligence Component A. In what is a particularly messy and constantly evolving context, and with many fields of intervention in countries with their own domestic political and conflict dynamics, the well-intentioned urge to be more responsive than traditional EU programming might not prioritise ongoing conflict stakeholder analysis. The Results Framework (European Commission) offers a glimpse of the categories of stakeholders intended to benefit, but how these are unpacked and evaluated by the Fund Manager in the Action Documents submitted to the Trust Fund Board is not obvious to external observers.

Trade

The Handbook for SIA (European Commission, 2016b) describes a preliminary stakeholder analysis taking place during the inception phase. It also makes reference to less formal entities as stakeholders, for example, referring to “close dialogue with all relevant stakeholders, including the more vulnerable ones” in Commissioner Malmström’s opening (European Commission, 2016b: 3). The methodology does raise a (faint) possibility that conflict stakeholder analysis could be foreseen as it recommends identifying which groups of people, actors or individuals might be affected by social impacts (which can include security, as noted earlier) or affected by human rights impacts (2016b: 22). The updated guidance in the Handbook provides for wide-ranging consultations around human rights impact with the potential to engage cross-cutting stakeholder groups, such as those on low incomes, indigenous groups, children and “ethnic minorities” (2016b: 23). Though it should be noted that all obligations fall on the external consultants that are contracted to conduct SIAs. The likelihood that consultants will be able to engage with highly relevant conflict actors, for example in the informal or illicit conflict political economy, is low. Under these circumstances, there is a strong chance that certain relevant conflict stakeholders and their positions, views and interests may not be reflected in an SIA analysis or consultation process.

As was the case for Component 1, the lack of consistency and clarity in unpacking commitments to conflict prevention or conflict sensitivity are visible in the wide variation among the instruments and in the language featured in guidance. For example, the wide variety of ways in which the label ‘stakeholder’ is used across different EU instruments. Some good practices included Manual of Outcome Indicators for the IcSP

(2016) which recognises the need to identify all relevant groups involved in the conflict, their perspectives and how they relate to each other. In the case of DG Trade, the recently updated Handbook for SIA: Second Edition (European Commission, 2016b) has positively expanded concepts of relevant stakeholders to include informal entities, such as local communities, though there are not yet any lessons to draw on from implementation in situations affected by conflict. In many cases, the recommendation or requirement is not broad enough, or is focused on other types of stakeholders. ‘Conflict stakeholders’ describes much more than those who are affected by violence, or ‘vulnerable stakeholder groups’: it also refers to those who support or actively participate in conflict. Moreover, the passive connotation of ‘vulnerable stakeholders’ is not equivalent as there are groups who may be politically marginalised but still exercise their agency (in positive and negative ways) within the conflict dynamics.

3. Does the document / process require staff to reflect on the position and perception of the EU vis-a-vis the conflict stakeholders (including allies / spoilers) and the dynamics?

Development

This type of reflection is more likely to be carried out by the European External Action Service, which provides political steer for development assistance. Yet, this is a core component of due diligence that influences the potential effectiveness of development assistance from the strategic to the micro project level. Without knowing whether, how, or why conflict actors might view certain EU programming support, it is not possible to generate an accurate assessment of the likely effect or potential countervailing forces. References to such a reflection were largely absent in the operational documents reviewed, though the EU’s Evaluation Policy for EU Development Cooperation (European External Action Service, 2015) defines evaluation as looking at the reasoning behind impact or lack of thereof, which could include issues related to perceptions of the action. The RMF has addressed the need to reflect on the position and perception of the EU to some degree in the case of public financial management in Statebuilding contracts (as noted in factor B) where it refers to potential “champions, entrenched resistance, sectoral interests, conflicts” to be identified by staff (European Commission 2012: 101). Opportunities for staff at working-level to consider the position and perception of the EU are lacking in the development programming documents reviewed.

IcSP

The IcSP Thematic Strategy Paper 2014-2020 and Multi-Annual Indicative Programme 2014-17 includes the assumption that the EU is credible and perceived as a neutral and honest broker. However, this appears to be an incredible assertion given the multiplicity

of actors that at any given time represent ‘the EU’ in the eyes of various global populations and publics; not to mention the variety of conflict actors. There are no other references to a self-reflection, however, the Service for Foreign Policy Instruments – the service that manages the IcSP – commissioned a one-off survey, published in 2015, on perceptions of the EU and EU policies abroad (European Commission, 2015b). Although the survey mostly drew on data from countries less affected by conflict (except for Russia), this would be the type of evidence input that could support more context-driven EU self-reflection in environments where perceptions in a conflict have the potential to accelerate or derail EU assistance.

Trust Funds

There was no reference in the Madad Fund, Operational Criteria for Concept Notes and Action Documents (n.d.) to a reflection on the position and perceptions of the EU from key conflict stakeholders as part of the selection process. As the Madad EUTF is framed as primarily a humanitarian and developmental response, it appears that there is an emphasis on demonstrating EU visibility for the assistance. The limits of the methodology mean that there is no way of knowing which EU actors would be responsible for a reflection on how local, regional and international conflict stakeholders in the Syrian conflict context might perceive the EU, or act to support or undermine the actions of the Madad EUTF, as it would be prudent to assess likely effects or harm from a business and legal due diligence point of view.

Trade

There were no references to the kind of reflection that would allow EU trade negotiators to consider how conflict stakeholders might view, act or react during negotiations or as a result of the agreement. Given the recent experience of commentators drawing the line between the EU’s trade agreement with Ukraine and the decision by the Russian Federation to annex Crimea, (UK Parliament, 2015), a stronger regime of due diligence analysis relating to perceptions of, and the positioning of the EU, might have been expected. It is also possible that the leverage from trade that is recognised in the case of human rights situations in partner countries could be equally relevant in the case of conflict-affected situations.

The moment to reflect on the position and perception of the EU vis-à-vis the conflict stakeholders is more likely to be factored in at strategic decision-making levels, for which there is often less transparency. However, the EU Staff Handbook on Operating in Situations of Conflict and Fragility (European Commission, 2015a) is a notable departure, as it makes the case for enhanced efficiency of EU assistance if the EU chose to more systematically factor in leverage from positive perceptions, such as “credibility as an intergovernmental entity, with a negligible political profile and no tie to national

interests...critical mass of financial support...[and] wide array of policies and instruments, including as a major trading partner with many fragile states” (European Commission, 2015a: 16). At the same, the Handbook warns of the need to monitor how the EU, EU staff and the management of the intervention is perceived (2015: 43). As demonstrated in the reference to the perception survey commissioned by IcSP, there is scope to invest in this type of reflection so that EU actors are better equipped to flag possible conflict impacts, adapt according to perceptions, and spot the opportunities that positive perceptions can create.

4. Does the document / process require staff to describe the potential positive and negative interactions between the instrument of engagement and the conflict dynamics in that context?

Development

As noted previously, this due diligence component essentially boils down to conflict sensitivity and a clear theory of change for a positive impact. With the exception of the EU Staff Handbook on Operating in Situations of Conflict and Fragility (2015), there is less detailed guidance visible in many operational documents or application form templates. In the example Application Form Euro-Palestinian cultural activities (2017) from the ENI, DG NEAR does ask potential implementing partners to describe “attitudes of all stakeholders towards the action” (2017: 15) and the ‘Sustainability of the Action’ section counsels applicants that “a good risk analysis will include a range of risk types including physical, environmental, political, economic and social risks”, but without alluding to conflict explicitly. This application-form template applies to EDF, DCI, NEAR and EIDHR. There is an overall risk assessment of the sector intervention included in the MIP template, however, one obstacle to more explicit language on conflict risks may be that operational documents, such as MIPs and Country Strategy Papers are public and drafted as ‘partnership’ documents that are likely to reflect diplomatic as well as technical language.

Despite having the most detailed requirements and methodology for measuring risk, the Risk Management Framework has some methodological weaknesses in terms of conflict sensitivity and a clear theory of change for using budget support in a conflict-affected country. The *raison d’être* for the RMF is to manage the risk inherent in disbursing Budget Support to the government of a partner country. It assesses five risks: Political, Macroeconomic, Developmental, Public Financial Management and Corruption & Fraud. However, in the Budget Support Guidelines (European Commission, 2012: 127), the descriptions of the risks are presented from an EU internal perspective. In other words, the RMF assessment is only asking staff: Is there likelihood of a conflict, and if so, how

will the EU's budget support be impacted? The focus is on the risk for the EU. What is missing from the RMF is the question: Will Budget Support stimulate positive or negative impacts on conflict and insecurity in the partner country? Here, the focus is on the conflict. The one-way perspective on risk in the RMF means that staff are encouraged to focus less on conflict-sensitivity and theories of change, and more on the EU's risk.

IcSP

The IcSP, again, represents some good practice, as staff are asked in the Manual of Outcome Indicators for the IcSP (European Commission, 2016a) to assess conflict sensitivity in terms of “the donor’s ability to understand the interaction between the intervention and the context, and act upon the understanding to avoid negative impacts and have as many positive impacts as possible in order to do no harm” (European Commission, 2016a: 95).

Trust Funds

The Madad EUTF uses reasonably robust language in its Operational Criteria for Concept Notes & Action Documents (n.d.), asking potential implementing partners / TF Manager to take account of “external factors, risks and assumptions”; to explain how impact on target groups will be achieved (n.d.: 3). This would certainly cover negative interactions, and helps to establish a theory of change that explains exactly how the engagement will take effect.

Trade

The EC Communication: Trade for All (European Commission 2015c: 23) states that it will seek to “minimise any negative impact on LDCs and other countries most in need”, which, whilst welcome, is not appropriate in situations affected by conflict, which face issues beyond developmental challenges and which, moreover, may or may not be LDCs. The SIAs Handbook notes that human rights consequences have been assessed systematically since 2012. The Handbook also includes quite positive language in the updated Handbook for SIA: Second Edition, “SIAs should provide a detailed assessment of the likely significant social impacts of the trade agreement under negotiation and identify which groups of people or actors will be affected” (European Commission, 2016b: 19). Provisions for an *ex post* evaluation are also welcome to test assumptions or conclusions drawn in the negotiations phase. And in a conflict-affected context, this is particularly welcome. Nonetheless, given that conflict and politics is absent in the concept of impact, and that the Handbook is no more than the explanation of the framework governing external consultants, there is still room for improvement to strengthen the reflection on conflict sensitivity. This due diligence component can be more politically sensitive for the EU and the governments of partner countries, as it may

challenge other instruments of EU strategy, or throw light on the role of partner governments in the conflict dynamics. Some version of this component is considered in many of the guidance documents that were consulted, though rarely unpacking what is meant by risk. The danger that was highlighted in the case of the RMF is that the language of 'risk' has become so ubiquitous that often, no one has considered whose risk is being assessed and mitigated. In the case of development instruments, templates require staff and implementing partners to describe risks, but as conflict is not specified as a lens for considering risk, there is no guarantee that this will be taken into account. Hence, the component talks about the interaction between the instrument and the conflict context and not a one-way calculation of risk. This due diligence component would require that EU actors take time to consider that: while external developments / situations may present obstacles to the implementation of EU policy, (in the case of externally-oriented instruments) the goal is not implementation of EU policy, but a positive impact on the context. This is where EU trade differs as an instrument, as the tipping point between advantages for the EU market (the goal of international trade relations) and exacerbation of conflict drivers or dynamics in a partner country is not clear, and never discussed.

5. Does the document / process require staff to reflect on whether this instrument – given the analysis – is appropriate and able to meet conflict prevention and/or peacebuilding objectives?

Development

This component calls for a final moment of decision-making, taking account of the research and analysis in a due diligence process. It is unclear how much flexibility exists at the most senior levels of EU external action and with Member States in terms of adaptation of development programming or alternative funding resources that are specifically designed for situations affected by conflict. While the establishment of the IcSP is designed to be applied in situations affected by conflict, the difference in the scale of resources between EDF, DCI, ENI and the IcSP is enormous. The EIDHR is an example of the creation of an instrument to reflect the distinct set of circumstances that exist where human rights and democracy are challenged. If due diligence research and analysis consistently showed that obstacles to development in situations of conflict are tied to power and vested interests, rather than poverty alone, EU development funding instruments (i.e. the way partnerships and programming are designed) may not necessarily be best structured to respond. This in no way downplays the importance of EU support for poverty alleviation actions, which are vital to development. It simply raises the issue that many of the obstacles to development and the dynamics found in

situations affected by conflict cannot be solved by alleviating poverty alone. In such cases, government ownership and injections of EU funding and resources into complex political economies can inadvertently increase the risk to the effectiveness of the EU's investment and inadvertently cause harm by exacerbating conflict dynamics in such situations. Though a primarily strategic component, it is likely that some of the challenges of continuing with development funding instruments are visible to EU staff at operational level. As such, it is notable that this type of reflection is not integrated in the evaluation methods, in order to feed into such strategic decisions.

IcSP

The IcSP differs from development cooperation instruments in that is not automatically used; rather, decisions are required on priorities and the appropriate time to use IcSP as opposed to other instruments. That makes for a more conducive setting for a due diligence process, as decision-taking moments are obligated and embedded within the instrument's procedures: on an ad hoc basis for Article 3 crisis responses, and through priority-setting decisions for Article 4 for peacebuilding partnerships.

Trust Funds

Trust Funds have only entered the scene as a modality for EU assistance and external engagement in the past few years and have almost exclusively been established in response to crises or conflict. The fact that TFs are a relatively new EU modality means that they are an 'alternative' to existing cooperation instruments. As well as raising the EU's political visibility, the selling point for EUTFs is the potential for greater flexibility and responsiveness. As an ad hoc, context-specific instrument, the decision to establish a Trust Fund – in the case of Madad for the consequences of the conflicts around Syria – is more of a risk and would have been subject to far more scrutiny, precisely because it was a departure from the norm. This type of decision-taking context is where due diligence would be expected to offer a more solid foundation. However, the good practice seen in previous due diligence components may be due to the pressure to deliver in a crowded field of responses and international actors around the Syrian conflicts. This, plus the scepticism or resistance to an alternative modality, already provides an incentive for more prudent and effective programme design to avoid inconsistency or duplication with other responses.

Trade

For trade, a decision on whether or not trade negotiations are the best course of action is made based on an internal EC impact assessment. The impact assessment examines the potential economic, environmental or social impacts an agreement could have (with no mention of political or conflict impacts) (European Commission, 2016b: 7). This step comes before every significant trade initiative (European Commission, 2015c: 18) and

therefore before a mandate has been handed down from the Council of the EU and agreed to by the European Parliament. However, the operative words are “every significant initiative” which means there is no obligation unless a conflict-affected context is also deemed to be a significant partner. Nonetheless, this at least has potential to include stronger due diligence checks to ensure prudence and the ability to mitigate potential negative impacts on the conflict context. As this modality has a high-profile, or at least visible, moment of decision-making (i.e. mandate or no mandate), there may be more motivation to ensure that all scrutiny can be withstood and all arguments against the initiative have been examined.

A decision on whether or not trade negotiations are appropriate is embedded in the functioning of the instrument as it requires a mandate to be sought and approved. This creates an incentive to perform due diligence checks in order to respond to scrutiny or to present evidence of risk management in the face of resistance. In the case of the IcSP and the RMF, decisions are scheduled and required for the very functioning of the instrument and so due diligence is more likely to be demanded and sought to make the best possible decision. It seems that the demand for this type of due diligence ‘check’ is likely to depend on whether a decision is being taken and on whether those taking the decision will be visibly accountable for the decision they take. In contrast, ad hoc research and analysis often results in products that analysts are then obliged to push into decision-making processes. In the case of trade, IcSP, RMF and the establishment of a Trust Fund, there is a clear point at which a decision has to be made to invest in EU support. In other words, there is a real possibility that the EU could decide *not* to use those EU instruments. EU development financing instruments, in contrast, are more structurally embedded in EU institutions and processes and there are no visible decision-making moments where the logic of choosing to disburse EU assistance primarily through development funding instruments is questioned. The introduction of a ‘more for more’ framework with annual progress reports within the ENI, on the other hand, does create a context of scrutiny and pressure to demonstrate prudence to some degree.

6. Further analysis

Despite the gulf in the incorporation of conflict issues between DEVCO and TRADE policy documents, the same chasm was not so visible in operational guidance documents for development and trade. Instead, the most notable finding was that almost every instrument appeared to differ. As much of the guidance for the EDF is mirrored in the DCI, and sometimes even in the EIDHR, there was less variation. But, for the ENI, IcSP, Budget Support and Trade, there was an assortment of different approaches. The lack of specificity was frequently a challenge in assessing due diligence and it seems that much of the operational guidance issued under the examined instruments often stopped at a simple reference to a process, a concept, and occasionally a method, but almost never linked to conflict *per se*. Requiring EU actors to elaborate on how an intervention, trend, development of event will influence or transform a specific dynamic or risk of violence is ultimately what separates statebuilding from a conflict response. And, there is little evidence of how and at what stage the EU reflects on perceptions of itself and how its interests are viewed in the minds of conflict stakeholders. Development or trade practice based on a general theory of how change in a state or society is best achieved is no replacement for a context-specific theory-of-change based on knowledge of the actual conflict stakeholders, the actual root causes and the agency of all the conflict stakeholders. Apart from these overarching conclusions, four recurring themes appeared in the course of analysis and are presented below.

Consistency

The consistency of terminology is low across the development and trade instruments and their accompanying operational guidance documents. On the one hand, this is understandable as there are different types of risk, different factors, different dynamics that need to be considered in addition to those that are conflict-related. Yet even in relation to conflict, there is no clear pattern as to how analysis, risk assessment, and stakeholders are treated by the various EU actors. The only document that provides a clear explanation of terminology relating to conflict is the EU Staff Handbook on Operating in Situations of Conflict and Fragility (European Commission, 2015a), which nonetheless seems to have been drafted in isolation from the senior EU decision-makers that are responsible for the major development and trade instruments. The advice and explanations of how to operationalise conflict analysis does not seem to have filtered through into the day-to-day guidance, templates or instructions for geographic leads. The same is true for the inconsistent references to stakeholders. At its most basic, this simply refers to those that have a stake. This could refer to those with a stake in the EU's policy, in other cases, it might mean those who have a stake in the sector. But neither of these is synonymous with those that have a stake in the conflict dynamics.

Recommending more consistent terminology that reflects a cohesive and coherent approach to due diligence is not arbitrary; in the end, the terminology only matters because of the operational impact that it can have. Assessing risks to the EU's reputation is not the same as assessing risks that a conflict actor might become more aggressive or extreme. Likewise, understanding the points of view of other EU policy actors is not the same as consulting the views of national stakeholders in a conflict context whose lives might be negatively affected by an EU action. Confusion at the abstract level trickles down to confusion at the operational level. As such, this adds to the likelihood of incoherence or omissions of due diligence occurring in situations affected by conflict.

One-sided analysis

Three of the five criteria for due diligence could be described as calling for more self-reflective perspectives. There are countless research reports, briefs, frameworks and evaluations that are more than able to support better context analysis, stakeholder analysis or risk assessment in situations affected by conflict. What receives less attention is the need for any actor, and especially an actor as complex and multifaceted as the EU, to reflect on their own positioning vis-à-vis conflict stakeholders. This is more than judging leverage over the government of a partner country. This is recognising how the perceptions of the EU or parts of the EU will affect stakeholders' willingness to cooperate, or trigger a negative reaction from other bilateral or international actors. This means knowing that an activity or intervention carried-out through EU trade relations may be more effective than the same intervention attempted through development cooperation, for example. This will vary according to the context, and may differ across time. Ignoring this more self-reflective aspect risks wasting resources or missing opportunities to enhance a conflict prevention or peacebuilding impact. With the advent of the 2016 EUGS's integrated approach to conflict and crisis, this type of reflection is an essential component. If the 2013 Comprehensive Approach to External Conflict & Crises was about multiple EU tools working in parallel, then the integrated approach should be about a more strategic division of labour that recognises a multi-directional relationship of impact between the different EU engagements and the context in which they are applied.

Delegation of duty

Due diligence in the case of EU trade is a mixed bag of some positive stipulations included in the new sustainability impact assessment handbook and striking weaknesses of omission and low levels of obligation. The fact that SIAs are described as necessary for "all major trade agreements" (European Commission, 2016b: 8) gives an incredible amount of leeway not to conduct assessments in the case of fragile or conflict-affected

states or regions that may not represent a major agreement for the EU. The omission of political impact and the avoidance of references to conflict, security and even stability does not indicate that the strong rhetorical commitments in the EU Global Strategy (2016) will find their way into the everyday, standard practice within DG TRADE. And as SIAs are delegated to external consultants, there is a question of where the ultimate accountability for due diligence lies.

Another aspect where information for due diligence can be weak is the practice of using consultations as the primary means of mapping and gathering input from conflict stakeholders. Consultations rely on stakeholders knowing that the EU is planning an action or policy; they may be conducted in a European language not widely spoken by all relevant conflict stakeholders; they may seek input on technical aspects of EU implementation that are unfamiliar to relevant conflict stakeholders; or they may exclude input from relevant-but-less-desirable stakeholders, such as non-state armed actors. Consequently, consultations as a sole mechanism for gathering information and input for due diligence have serious deficiencies in terms of eliciting input from a broad range of conflict stakeholders, as the onus is on conflict stakeholders, rather than the EU to remove these obstacles if they wish to be heard.

EU development policy documents make numerous references to conflict, conflict sensitivity and peace (EU Joint Communication a Strategic Approach to Resilience in the EU's External Action; 2017: European Consensus on Development, 2017). However, beyond the level of policy, there are few clues as to how this is unpacked by EU staff at the operational level. It appears that the most references to risks, stakeholders, analysis are still more likely to be found in the templates that have to be completed by (potential) external partners. This has the effect of delegating the EU's due diligence responsibility to the (potential) implementing partners. These partners may be UN agencies, MS agencies, large international NGOs, but they may equally be small national or local NGOs, without the resources to take sole responsibility for a due diligence process (especially before a proposal or activity has even been funded). The exception to this is Budget Support, where the RMF assessment is placed in the hands of the EU country team across headquarters and in-country, and with inputs from different EU institutional actors.¹⁰ The question is: can and should the EU delegate its due diligence responsibilities (along with implementation) to the end of the chain when it comes to EU development engagement? EU due diligence should be just that, carried out by – or at the very least with – actors within the EU in order to create the necessary incentives and ownership by senior EU decision-makers.

¹⁰ It should, however, also be acknowledged that the human resource constraints of CFSP and EU external action portfolios leaves little staff time or dedicated expertise to take on significant assessment burdens.

Transparency

In efforts to identify how concepts of prevention or references to conflict sensitivity have been unpacked, transparency and access to documents and templates can present an obstacle to scrutiny of EU due diligence in engagements in conflict-affected situations. Therefore, while there seems to be some commitment to the letter of transparency with publication of some general policy, or general frameworks, adherence to the spirit of transparency is more questionable as detailed methodologies and processes are either absent, or else buried and spread across numerous different documents. Accountability is part of due diligence and the ability to probe and assess the strength of that accountability does rely to a large extent on transparency and access. Such access and the spirit of transparency from policymakers is supposedly foreseen in the High Representative Decision of 2011 on Access to Documents (High Representative of the Union for Foreign Affairs and Security Policy, 2011) and the European Code of Good Administrative Behaviour, which places a responsibility on EU staff to “explain their activities” and “welcome public scrutiny of their conduct” (European Ombudsman, 2015: 10). Yet, with a plethora of overlapping and multilevel guidelines, frameworks, indicators noted above, it is unlikely that external observers, EU citizens or EU taxpayers, or even EU staff themselves would be able to keep abreast of how the EU is seeking to turn its policy and rhetorical commitments to conflict prevention into reality.

7. Conclusions

This study has unpacked the EU’s efforts on due diligence in situations affected by conflict in the two key areas of development and trade. But the question remains as to whether senior decision-makers within the EU institutions are willing and equipped to conduct a reasonable level of due diligence to be more proactive in its accountability to EU taxpayers and citizens. In the available documents, what was visible with regard to due diligence that addresses the inherent risks in situations affected by conflict was euphemistic at best. The vagueness of the obligations, the lack of consistency of terminology referring to conflict or analysis and the delegation of analysis and reflection to the micro level of project implementation paints a weak picture of EU due diligence for development. For trade, obligations are also kept more open, and even in the cases where more research and analysis is foreseen, this is delegated to external researchers, using a methodology that seems at pains to avoid referencing political dynamics. The proposed due diligence framework for engaging in situations affected by conflict represents the ideal, but it would not be the role of a study to set low expectations for EU accountability in this area. With all the challenges of human resources in terms of

staff time or expertise on conflict and peacebuilding notwithstanding, the EU continues to engage in situations affected by conflict: maintaining delegations, managing programmes, overseeing funding, and pursuing trade relations, not to mention CFSP interventions. As a result, it has a responsibility to exert itself as much as possible to assure effective and prudent external action in high-risk conflict-affected situations in terms of its political commitments and accountability. As such this report makes five main policy recommendations (overleaf) regarding how to implement the five components of the due diligence framework.

Findings and policy recommendations

1. Untangle and attain greater consistency across EU instruments on the uses of similar terminology around risk, impact, dynamics, aspects and various sectors.

Documents refer to potential *impact* on intervention on various *dynamics* (ENI), the *risks* in various sector to the intervention (RMF); the various *aspects* of the conflict context in which the intervention will take place (IcSP), and the various *potential impacts* of the intervention (Trade). One refers to social, economic, environmental and political (ENI); another to political, macroeconomic, developmental, public financial management and corruption/fraud (RMF); another to political, economic, social, environmental and security (IcSP); and yet another to economic, social, human rights and environmental (Trade). Standard conflict analysis methodologies often refer to some variation of political, economic, social, environmental and security factors (European External Action Service and European Commission, 2013; World Bank, 2005) as the primary pillars and therefore alignment with these would provide valuable consistency inside the EU and in consulting external sources of conflict analysis expertise.

2. Recognise that engagement with stakeholders is not equivalent to an understanding or a clear mapping of *conflict* stakeholders.

The most detailed guidance on mapping conflict stakeholders comes from the EU Guidance Note on Conflict Analysis (2013:4), which asks staff to explore the interests, goals, positions, capacities and relationships of conflict actors. However, as yet this has not trickled down into any of the operational guidance that is more specifically linked to an instrument. Adopting the approach taken in the Manual of Outcome Indicators for the IcSP (2015), which recommends analysis of all relevant groups involved in the conflict, their perspectives and how they relate to each other is the closest to good practice for a particular instrument. A side note is on the widespread use of stakeholder consultation mechanisms in EU development, IcSP and Trade. Mapping and analysis is more likely to reveal a broader network of conflict stakeholders than the self-selection or limited outreach of consultation processes, and should not be seen as interchangeable.

3. It is equally important to analyse the position and perceptions of the EU by the different conflict stakeholders as part of efforts to assess the risk of (in)effectiveness or inadvertent harm.

In general, the documents examined for this and other components of due diligence are more likely to focus on analysis and reflection on the external context. This overlooks the political meaning and interpretations that are drawn by the different conflict stakeholders, international partners, and powers. There is a glimpse of good practice in Budget Support Statebuilding contracts which acknowledge the significance of allies, spoilers and vested interests and could be replicated more widely across other instruments.

4. Exploring the positive and negative interactions implies a more complex relationship than one actor's / action's influence on another.

The IcSP's description of conflict sensitivity in its Manual of Outcome Indicators for the IcSP (2016: 95) comes closest to this due diligence component in recognising the interaction of influences between the intervention and the context, and the need for the donor to understand this. This implication, together with that from due diligence component C on perceptions and positioning of the donor, would represent a much stronger reflection on the EU as a collection of actors with different added value, leverage, limitations and interests.

5. Conduct more, and higher profile, moments of review where continuing without significant adaptation is not a given outcome, in order to generate more incentives for senior EU decision-makers to perform due diligence checks.

The visibility of a decision-making moment could create the necessary pull for more detailed, conflict-sensitive, and reflective analytical input from operational staff, to be able to measure risk and manage scrutiny. In such circumstances, all EU staff from operational to strategic level would have a stronger shared interest in mitigating the EU's reputational risk by: avoiding inadvertent outcomes that exacerbate conflict; avoiding negative outcomes that result in human suffering; protecting EU credibility as a foreign policy actor; and demonstrating the EU's responsibility in relation to EU taxpayers' financial contributions.

Bibliography

Barnidge, R.P. (2006), 'The Due Diligence Principle Under International Law', *International Community Law Review*, Vol. 8, No. 1, pp. 81-121.

Clingendael Institute (2007) *Framework for Strategic Governance and Corruption Analysis: Designing Strategic Responses Towards Good Governance*.

Council of the EU, EU Member States, European Parliament and European Commission (Joint Statement) (2017) *European Consensus on Development*.

Decision PROC HR(2011)012 of the High Representative of the Union for Foreign Affairs and Security Policy of 19 July 2011 on the rules regarding Access to documents (OJ C243, 20/8/2011, in e-EEAS Register Portal: <http://www.europa.eu/public-register/> Accessed 20 August 2017.

DFID Drivers of Change Team (2003) *Factsheet: Drivers of Change*, available online at http://webarchive.nationalarchives.gov.uk/+http://www.dfid.gov.uk/contracts/files/oje_c_5512_background.pdf, accessed 10 August 2017.

DG Trade website (2017) 'In focus: Conflict minerals, the regulation explained', page updated 8 June 2017, available online at <http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/>, accessed 19 August 2017.

ECORYS (2013), *Trade Sustainability Impact Assessment in support of negotiations of a DCFTA between the EU and Tunisia*, Rotterdam, 25 November 2013.

The European Centre for Development Policy Management (ECDPM) (2015), *EU Trust Funds – Shaping more comprehensive external action?*, Briefing Note 81. Available at <http://ecdpm.org/publications/eu-trust-funds-comprehensive-action-africa/> . Accessed 16 July 2017.

European Commission (n.d.), *ENI Regional South Strategy Paper (2014-2020) and multiannual indicative programme (2014-2017), Summary*.

European Commission (2012) *Budget Support Guidelines*, September 2012.

European Commission (2014), *Commission Decision on the establishment of a European Union Regional Trust Fund in response to the Syrian crisis, "the Madad Fund"*, Brussels, 10 December 2014.

European Commission (2015a), *Operating in Situations of Conflict and Fragility: an EU Staff Handbook*, Brussels, June 2015.

European Commission (2015b), *Management Plan 2015: Service of Foreign Policy Instruments (FPI)*.

European Commission (2015c), *Trade for all: Towards a more responsible trade and investment policy*.

European Commission (2016a), *Annual Report on the implementation of the European Union's instruments for financing external actions in 2015*.

European Commission (2016b) *Handbook for Trade Sustainability Impact Assessments*.

European Commission, DG Trade (2017) Trade Statistical Guide - June 2017

http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151348.pdf Accessed 20 October 2017.

European Commission and European External Action Service (2013) *The EU's Comprehensive Approach to External Conflict and Crises*.

European Commission and European External Action Service (2016) *Joint Staff Working Document: EU Conflict Early Warning System: Objectives, Process and Guidance for Implementation*.

European External Action Service (2015) *Evaluation Matters: The Evaluation Policy for European Union Development Co-Operation*.

European External Action Service and European Commission (2013), *Guidance note on the use of Conflict Analysis in support of EU external action*.

European External Action Service and European Commission (Joint Communication) (2017), *A Strategic Approach to Resilience in the EU's External Action*.

European Ombudsman (2015) *The European Code of Good Administrative Behaviour*, p.10.

Fritz, V., Levy, B. and Ort, R. (2014) 'Problem-Driven Political Economy Analysis : The World Bank's Experience', *Directions in Development Public Sector Governance*. Washington, DC: World Bank.

Furness, M. and Gänzle, S. (2012) The European Union's development policy: a balancing act between 'a more comprehensive approach' and creeping securitisation, *Exchanging Ideas on Europe 2012: Old Borders – New Frontiers*, Passau, 3-5 September.

Gündüz, C., Vaillant, C. and Banfield, J. (2006) *Addressing the economic dimensions of peacebuilding through trade and support to private enterprise*, September 2006, p. 3.

High Representative of the Union for Foreign Affairs and Security Policy (2011), *Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 19 July 2011 on the rules regarding Access to documents*, OJ C243, 20 August 2011, in e-EEAS Register Portal: <http://www.europa.eu/public-register/>. Accessed 20 August 2017.

House of Commons European Union Committee (2015) *The EU and Russia: before and beyond the crisis in Ukraine*, Chapter 5: The Crisis in Ukraine and the EU's Response, 20 February 2015, available online at <https://publications.parliament.uk/pa/ld201415/ldselect/ldeucom/115/115.pdf>, accessed 28 August 2017.

Institute for Economics and Peace (2017), *Global Peace Index*.

KPMG.com (2017), *KPMG Poland's webpage 'Commercial due diligence'*, available at <https://home.kpmg.com/pl/en/home/services/advisory/deal-advisory/transaction-services/commercial-due-diligence.html>. Accessed 30 October 2017.

Nyhiem, D. 2015. Early warning and response to violent conflict. Time for a rethink? Saferworld.

Nyheim, D., Sherlock, K., Trapp, R., Faria, F., Zapach, M., and Franco, A.C. Final Report. External Evaluation of the Instrument contributing to Stability and Peace (2014 – mid 2017).

EU Service for Foreign Instruments. June 2017.

OECD (2011), *The OECD's Guidelines for Multinational Enterprises*.

OHCHR (2011) *Guiding Principles on Business and Human Rights*.

Pettit, J. (2013) 'Power Analysis, A Practical Guide', SIDA.

Public Policy and Management Institute, National Centre for Research on Europe (NCRE), NFG Research Group (2015) *Analysis of the Perception of the EU and EU's Policies Abroad*, 7 December 2015.

PWC.com (2017), *PWC Ghana's webpage 'Commercial and Market Due Diligence'*. Available at <https://www.pwc.com/gh/en/services/advisory/commercial-and-market-due-diligence.html>. Accessed 24 October 2017.

Shardesai, S.; Wam, P. (2002) 'The Conflict Analysis Framework (CAF) : Identifying Conflict-Related Obstacles to Development'. *Social Development Notes*; No. 5. World Bank, Washington, DC.

Sherriff, A., Galeazzi, G., Veron, P., Deneckere, M. (2017) *Europe's response to violent conflict: Shifting priorities in a changing world?* Available online at <http://ecdpm.org/talking-points/europe-response-violent-conflict-changing-world/> Accessed 30 May 2017.

TRANSTEC (2016), *Manual of Outcome Indicators for the Instrument contributing to Stability and Peace (IcSP)*, Brussels.

UN (2010), *Principles for Responsible Investment*.

UN (2015), *2030 Agenda for Sustainable Development*.

United Nations Global Compact Office and the Principles for Responsible Investment (PRI) initiative (2010), *Guidance on Responsible Business in Conflict-Affected and High-Risk Areas: A Resource for Companies and Investors*.

World Bank (2011) *World Development Report on Conflict, Security and Development*.

Worldbank.org (2017), *Workbank's official webpage on Fragility, Conflict and Violence*. Available at <http://www.worldbank.org/en/topic/fragilityconflictviolence/overview>. Accessed 25 October 2017.

World Economic Forum. (2016) *Responsible private sector action to address fragility, conflict and violence*. http://www3.weforum.org/docs/WEF_Responsible_Private_Sector.pdf Accessed 25 October 2017.

Annex I: Document matrix

Document	Date	Applies to...
Results Oriented Monitoring (ROM) Handbook	March 2015	All external assistance instruments
Evaluation Matters - The Evaluation Policy for European Union Development Co-operation	August 2014	At least all of development cooperation
Better Regulation Guidelines	May 2015	All EU policy
Evaluation of the European Union's co-operation with Georgia (2007-2013)	August 2015	All external assistance instruments
Strategic evaluation of the EU cooperation with Lesotho	July 2015	All external assistance instruments
Strategic evaluation of the EU cooperation with Yemen	June 2015	All external assistance instruments
Council Conclusions on the Action Plan on Human Rights and Democracy 2015-2019, 20 July 2015	July 2015	All external assistance instruments
EuropeAid (2016) Annual Report: Report on the implementation of the European Union's instruments for financing external actions in 2015	2015	All external assistance instruments
"Increasing the Impact of EU Development Policy: an Agenda for Change", (COM (2011) 637 final) of 13.10.2011	2011	All development cooperation instruments (EDF / DCI / EIDHR / ENI...)
"Paving the way for an EU Development and Cooperation Results Framework", (SWD(2013) 530 final) of 10.12.2013	2013	All development cooperation instruments (EDF / DCI / EIDHR / ENI...)
Commission Staff Working Document "Launching the EU International Cooperation and Development Results Framework"	2015	Projects and programmes financed under the external assistance instruments managed by DG International Cooperation and Development
Logical Framework Template (as annexed to standard Action Document as of 1 January 2015)	2015	All development cooperation instruments
Logical Framework Template	January 2016	All development cooperation instruments

EU Staff Handbook on Operating in Situations of Conflict and Fragility	2015	All external assistance instruments
ENI Programming instructions 2014-2020	Unspecified	ENI
NEAR Guidelines for linking Programming and Evaluation	July 2016	ENI
Full application form - EuropeAid/154711/DD/ACT/PS - "Support to Euro-Palestinian cultural activities 2017"	March 2017	ENI
Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund, L 58/1	March 2015	EDF
Instructions for the Programming of the 11th European Development Fund (EDF) and the Development Cooperation Instrument (DCI) - 2014-2020	May 2012	EDF / DCI
Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide, L 77/85	March 2014	EIDHR
Instrument for Democracy and Human Rights Worldwide Multiannual Indicative Programme (2014-2017)	2014	EIDHR
Regulation No 230/2014 of 11 March 2014 establishing an instrument contributing to stability and peace	March 2014	IcSP
IcSP Thematic Strategy Paper 2014-2020 and Multi-annual Indicative Programme 2014-2017 (Annex)	August 2014	IcSP
Annual action programme 2017 for the Instrument contributing to Stability and Peace - Conflict prevention, peace-building and crisis preparedness component	June 2017	IcSP
Annex 6 - Concept note for new IcSP Action		IcSP
Regulation No 236/2014 of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action	March 2014	IcSP
Evaluation Roadmap 22 October - Mid-term evaluation of Instrument contributing to Stability and Peace (IcSP)	November 2015	IcSP

Manual of Indicators for the IcSP & Annex	May 2016	IcSP
Budget Support Guidelines	2012	Budget support
COMMISSION DECISION C(2014) 9615 of 10.12.2014 on the establishment of a European Union Regional Trust Fund in response to the Syrian crisis, "the Madad Fund"	2014	Madad Fund
COMMISSION DECISION of 21.12.2015 amending Decision C(2014) 9615 final on the establishment of a European Union Regional Trust Fund in response to the Syrian crisis, "the Madad Fund"	2015	Madad Fund
Operational Criteria for A) Concept Notes / proposals submitted to the Madad Fund Manager, and B) Action Documents submitted to the Madad Fund Operational Board	n.d.	Madad Fund
DRAFT RESULTS FRAMEWORK 2015-2017 - European Union Regional Trust Fund in response to the Syrian crisis, "the MADAD FUND"	n.d.	Madad Fund
Action Document - Enhanced support to refugees affected by the Syrian and Iraqi crises in Turkey	n.d.	Madad Fund
Action Document - Expanding and Equipping Ministry of Health facilities impacted by the Syrian crisis in Jordan	n.d.	Madad Fund
Handbook for Sustainability Impact Assessments. Second Edition.	2016	Trade
Guidelines on Analysis of Human Rights Impacts in Impact Assessments for Trade-related Policy Initiatives	2015	Trade
European Commission (EC) Communication: Trade for all	2015	Trade