

Whither EC Aid?

Briefing Note: the Lisbon Treaty

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A more political EU external action in the Lisbon Treaty – What does it mean for the Future of EU Development Cooperation?

About this Briefing Note

Whither EC Aid?' is an independent, joint ActionAid-ECDDPM project that aims to contribute to a broader based common understanding of the characteristics, added value and impact of EC development cooperation. After the finalisation of an initial discussion note, the project has entered a consultation phase to stimulate further inputs from stakeholders. Three briefing notes are being issued reflecting the main topics which have been raised in the workshop discussions, these being (1) budget support; (2) the treaty of Lisbon; and (3) division of labour. The briefing notes aim to raise awareness and inspire further analysis on the respective topics, and can be downloaded at <http://weca-ecaid.eu>.

The implications of the Lisbon Treaty on the way development cooperation will be conceived and implemented are on everybody's mind when it comes to discussing "Whither EC Aid". Among the most important issues that arise are the ways in which the institutional innovations will play out in practice, for example in the implementation of the recently launched Joint Africa-EU Strategy – a case of "new style" development cooperation: "beyond development" and "beyond aid".

Context

The Lisbon Treaty marks the latest phase of the gradual transformation of the European Union (EU) from a rather inward looking community to one with ambitions to be a global player. This is reflected in a significant expansion of the overall aims of the EU, including the eradication of global poverty. The Lisbon Treaty represents the EU shifting the emphasis from peace, well-being and prosperity within the EU to a concern with addressing global challenges.

The Lisbon Treaty was signed in December 2007. If ratified this year, it will bring about most of the changes proposed by the Constitution in 2004 to further European integration. The Treaty introduces a number of institutional changes which should lead to further integration. Many new areas will be communitarised, co-decision will be the standard legislative procedure and as such qualified majority voting will be extended to more than 40 areas. As a consequence, the Treaty extends the role of the European Parliament. The Treaty has some provisions allowing for various speeds of integration and different intensities of cooperation in response to calls for differentiated integration and institutional set-up adequate to progressive enlargement and increasing diversity of interests.

Provisions on Development cooperation in the Lisbon Treaty

The Treaty of Lisbon clearly states that the fight against poverty is at the heart of the Union's development cooperation policy: "*Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty.*" This focus is a major change from the current provision, which mentioned three other aims on equal footing.

Language in the Treaty about **Policy Coherence for Development** remains literally unchanged, requiring other EC measures to be consistent with development policy. But given the new focus on poverty reduction, the claim to take into account the objectives of development cooperation in policies likely to affect developing countries has become a much stronger demand. Focus on poverty reduction together with the coherence requirement also implies that development policy is a policy in its own right, and not merely an accessory of common foreign and security policy. However, the coherence article remains to be located in the section on development cooperation.

The other areas of external action merely have to be “consistent” with each other. **The consistency requirement has been strengthened** somewhat to go beyond consistency within external action to stress consistency between external action and other policies. **The overarching objectives of the Union’s external action** will for the first time mention “to foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty.” This implies that the Common Foreign and Security Policy (CFSP) but also external aspects of other EU policies share inter alia the aim of poverty reduction in developing countries.

Development cooperation and humanitarian aid remain “shared parallel competences” between the EU and its member states. Hence, it is crucial that the **complementarity and coordination** provisions have been strengthened in the Lisbon Treaty. A new element is that complementarity goes both ways: Previously the Community had to complement MS development policies, now the two “complement and reinforce each other”.

The big news for the EU’s external action

Below is a summary of the Treaty’s main changes in external action that will affect both the design of development policy and the implementation of development cooperation:

- The scope and ambition of the EU’s external policy has been elevated to a new level by the Lisbon Treaty. A new **Chapter on external action** in the Treaty on the European Union – including CFSP and the community areas - is opened by an article on **principles**. Somewhat mirroring the doctrine of the European Security Strategy 2003, this article captures some fundamental values, such as human rights and democracy, but also entails some of the aspects that have given rise to the term “soft power” for the EU. This includes the recognition of global problems that demand global solutions as well as the commitment to multilateralism and foreign

The key article on development cooperation now and in the Lisbon Treaty

Treaty of Nice TEEU, Article 177

1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:
 - The sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them,
 - the smooth and gradual integration of the developing countries into the world economy,
 - the campaign against poverty in the developing countries.
2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.
3. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Treaty of Lisbon TFEU, 208

1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union’s external action.
The Union’s development cooperation policy and that of the Member States complement and reinforce each other. The Union’s development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty.
The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.
2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

	January	February	March
International process		International Forum on CSOs and aid effectiveness to prepare for Accra arranged by Advisory Group on Civil Society and Aid Effectiveness (AG), Guatineau, Québec, Canada (3-6 Feb) Aid Effectiveness discussion in DEVE on the follow up or the Paris Declaration (26 Feb)	European Council, Brussels (13-14 March) 15th ACP-EU Joint Parliament Assembly, Ljubljana (15-20 March) First draft of the Accra Action Agenda EURODAD - GMF roundtable on aid effectiveness, Brussels (18 March)
WECA process	Roundtable at DG Development, European Commission, Brussels (17 Jan) Wilton Park conference “European Development Policy: Aid Effectiveness and Key Priorities”, UK (21-24 Jan) Roundtable at the Netherlands Ministry of Foreign Affairs, the Hague (30 Jan)	Roundtable in Dublin, Ireland (4 Feb) Roundtable in Madrid, Spain (22 Feb)	Roundtable in Kigali, Rwanda (3-4 March) Roundtable at AidCo, European Commission, Brussels (12 March) Roundtable in Colombo, Sri Lanka (13 March) Workshop on Budget Support with EC and EU NGOs, Brussels (27 March) Roundtable at Sida, Stockholm, Sweden (31 March)

relations based on the rule of law.

- The new **High Representative of the Union for Foreign Affairs and Security Policy** (HRFASP) will be “double-hatted”, being responsible for the communitarised areas of external relations as Commissioner for External Relations and Vice-President of the Commission, and chairing the newly established **Foreign Affairs Council**, which will be separated from the General Affairs Council. It is unclear, in which forum development, trade and enlargement topics previously dealt with by the GAERC will be treated. The HRFASP will prepare and ensure implementation of the Common Foreign and Security Policy (CFSP), represent the EU in CFSP matters and international organisations, conduct political dialogue and - together with the Council - “ensure the unity, consistency and effectiveness of action by the Union.”
- The HRFASP will be assisted by a **European External Action Service** (EEAS). It will comprise members of the Council Secretariat, the Commission and seconded diplomats from the member states.
- The HRFASP and the EEAS are designed to provide the EU with a stronger political profile and an **increased capacity to act consistently on the world scene**. The role of the HRFASP, bridging the community and intergovernmental spheres and heading all areas of external action has a potential for improving coherence in external relations. This is especially relevant in relation to the expansion of the EU's civil and military crisis management missions - including new mention of joint disarmament operations and conflict prevention for the first time be covered under a separate Common Defence and Security Policy (CDSPP) article.
- The status of the **Delegations** will be enhanced significantly by the Lisbon Treaty. As the EU will attain a legal personality, the Delegations will also have legal personality enabling them to represent the EU in the full range of EU competencies. This implies combining into one service the Council's Delegations (i.e. in New York) with the Commission's Delegations worldwide. Under the authority of the HRFASP, the EU Delegations are required to cooperate closely with

the member states' representations. In addition to ensuring that the EU's policies are complied with and implemented. The Delegations will also be required to “contribute to formulating” these policies.

- The Lisbon Treaty will make for more continuity of policy priorities and a stronger profile in external action through the new post of the **President of the European Council, elected for two and a half years**, replacing the six-month rotational presidency in foreign relations. The President will play a role in representation in CFSP matters and in crisis situations. There will be a Secretary-General of the European Council, whose role and function is different from the one of the HRFASP, but the HRFASP “shall take part in its work”. The European Council will determine the strategic interests and objectives for all EU external action by unanimity, on the basis of Council proposals (previously only for the CFSP).
- The **European Neighbourhood Policy** (ENP) has received a new level of recognition in the Lisbon Treaty. This confirms the reality of the current intensification of the ENP.
- With the Lisbon Treaty the EU has arguably given its mission of strong promotion of global **trade liberalisation**, a new level of significance. The Treaty of Nice included “the smooth and gradual integration of the developing countries into the world economy” as one objective of development cooperation. While in the Treaty of Lisbon the only objective mentioned in the section on development cooperation is poverty reduction and eradication, the over-arching objectives of external action include to “(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade”. The adjectives “smooth and gradual” were lost in this rearrangement, which is being interpreted by some as an ideological shift. In addition, bringing trade – including trade in services, foreign direct investment and intellectual property rights – under exclusive EU competence mostly subject to the co-decision procedure, we can expect the EC to continue to push for broad liberalisation as already seen in the EPA negotiations. At the same time, there are concerns that the Lisbon Treaty will reinforce the EU's generally protectionist agriculture policy which has a clear

International process	<p>OECD-DAC Working Party on Aid Effectiveness and Donor Practices meeting, (2-3 April)</p> <p>EC communication outlining the EU contribution to the HLF in Accra in September</p> <p>Regional Preparatory Events leading up to HLF in Accra: Organised by Regional Development Banks, UNDP and other interested partners</p> <p>This is taking place:</p> <ul style="list-style-type: none"> • For Pacific Island countries, Fiji (4-7 April) • For Southeast Asian countries, Bangkok (21-22 April) • For African countries, Kigali (28-30 April) 	<p>GAERC with development focus (26-27 May)</p> <p>ACP-EC Council of Ministers session (end of May)</p> <p>Regional Preparatory Events leading up to HLF in Accra: Organised by Regional Development Banks, UNDP and other interested partners</p> <p>This is taking place:</p> <ul style="list-style-type: none"> • For South Asian countries, Bangkok (5-6 May) • For Central and West Asian countries, Bangkok (8-9 May) • For Central and Latin American countries, Washington (19-23 May) • Middle East countries, date tbc
	<p>Roundtable in Rome, Italy (15 April)</p> <p>Roundtable with EU MEPs, Brussels (17 April)</p> <p>Roundtable in Copenhagen, Denmark (21 April)</p> <p>Roundtable, Banjul, Gambia (28-29 April)</p>	<p>Briefing notes on Budget Support, Division of Labour and on the Lisbon Treaty (First week of May)</p>
	<i>April</i>	<i>May</i>

impact on developing countries. Bringing the Common Agricultural Policy under the co-decision procedure will give increased influence to the European Parliament (EP), which may not necessarily result in a 'pro-poor' development CAP reform in the future.

Where do we stand now?

Politicians and diplomats are trying to keep discussions low key until the Lisbon Treaty has been ratified by all member states. The most critical moment will be the referendum in Ireland in late May or early June 2008, but even after that ratification could become a problem if the domestic political climate is not favourable in some Member States.

However, behind the scenes at the Commission and in member states' foreign and development ministries, reflections on the implications of changes brought about by the Lisbon Treaty and preparation of positions on the modalities and details of their implementation are being stepped up.

The Lisbon Treaty leaves many aspects of the institutional set-up open to be defined by the European Council and the HRFASP. Debate on the timing of the appointments of the three top leaders, the President of the European Council, the HRFASP and the President of the Commission is on-going. The EP argues that those decisions should take into account the results of the European Parliament elections in June 2009. Others think that the HRFASP has to be on the job as soon as possible in order to move reforms forward. A deal on the three top posts is expected to be tabled during the French presidency of the EU in the second half of 2008.

The practical side of the European External Action Service (EEAS) remains very much in the dark. A Joint Progress Report on preparatory work for the EEAS was submitted to the European Council already in 2005. This report stated that the EEAS should be of "sui generis" nature – meaning that it will not be a new institution "but a service under the authority" of the HRFASP, probably functioning as an interface for the three staff sending parties (Council, Commission, MS). Member states agree that the EEAS should consist at least of the relevant services of the Council Secretariat (DGE and Policy Unit) and of the Commission (DG RELEX). It is unclear if areas such as enlargement, neighbourhood and development policy will be integrated in the EEAS. The Union Delegations should be "integral part of the EEAS", but this "does not necessarily imply that all staff working in the Delegations would need to be members of the EEAS." Preparatory work on the EEAS should begin in 2008.

Issue arising for the future of EU development cooperation

The reception of the Lisbon Treaty among development practitioners has been mixed. On the positive side, principles and structures would improve:

- **Development cooperation and humanitarian aid have been strengthened as EU policies in their own right with their own objectives of poverty reduction and meeting humanitarian needs.**
- Some argue that **development cooperation has a lot to gain from a more political approach** as backed up by the Treaty. The EU's approach of an external action based on subscription to the rule of law, to multi-lateral solutions to global problems and to international solidarity has a unique potential in promoting development through a whole of government approach.
 - With the recognition that institutions are key for development and poverty reduction, comes the need for a more political approach in cooperation with partner countries. The new policies, such as Programme Support, the Governance Initiative, the Extractive Industries Initiative etc., need the political backing of the EU as a global actor.
 - Europe is the largest global economic power in trade, investment and development aid. A combination of external action instruments to address global challenges – rather than only development cooperation as a technical and often marginal exercise – has the potential of counter-weighting the influence of strong business interests, hard powers and emerging donors in Africa.
- The Treaty has a potential to streamline and **rationalise the EC development architecture**. There are various options of how to address the current multiplicity of instruments with thematically and regionally overlapping coverage managed by fragmented structures:
 - Calls for **uniting all EU development policies** under one Directorate General (DG) have re-emerged after the signing of the Treaty. Merging DG EuropeAid and DG DEV, bringing policy formulation and implementation together, should increase effectiveness. Uniting the development programmes of DG RELEX and DG DEV under the responsibility of the Commissioner for Development would increase thematic coherence. The issue arises if the DG responsible for development would

International process	European Council, stocktaking of report on MDG progress, Brussels (19-20 June) Final draft of the Accra Action Agenda (June-July)	Start French EU Presidency OECD-DAC Working Party on Aid Effectiveness and Donor Practices meeting (2-3 July) EuropeAid Annual Report 2008 to be published	CSO special forum on the HLF, Accra (31 Aug – 1 Sept)	Third High Level Forum on Aid Effectiveness, Accra (2-4 Sept) EC annual report on EU aid levels before Accra meeting
WECA process				Final Report and Launch Event
	June	July	August	September

retain a rather geographical than political role or if it would in fact be another DG RELEX working with development countries. Such reflections are premature as everything will depend on the nature of the EEAS, which i.e. was proposed to integrate the Council Secretariat's geographical desks with the political desks in DG RELEX, DG DEV and DG Enlargement as political advisory units to the Commission.

- The incorporation of the European Development Fund (EDF) in the EU budget – “**budgetisation**” - is back on the agenda through the deletion of an article which now excludes the EDF from the reach of that Treaty.
- Further **deconcentration** of development cooperation is desirable and would be logical in the context of the newly empowered Delegations.
- The new role of the **Union Delegations** in connection with the EEAS will have significant and wide ranging effects on implementation of development cooperation. The fact that DG Development and DG EuropeAid are not involved in the discussions on reforms expected after the ratification of the Treaty, highlights the danger that development cooperation priorities and needs will not be sufficiently taken into account in the set-up of the EEAS and the potential reforms within the Commission Services;
- The EEAS will have effects on the power balance within Delegations: Should development cooperation personnel not be integrated into the EEAS, while the Heads of Delegations will be double-hatted, the Heads of Cooperation may find themselves in a position of having to defend developmental priorities against more short term foreign policy objectives. Also, respective staff could end up marginalised within the Delegation, in violation of the whole-of-government approach. In addition, there would be competency overlaps and high transaction costs for a new cross-body communication and coordination.
- If the development cooperation staff is part of the EEAS, the fear is of instrumentalisation at the service of a diplomatic agenda. However, reflecting the situation at the level of the College of Commissioners, the integration of development in the EEAS provides the opportunity to give credit to the increasingly political nature of the EU's relationship to many ACP countries. Diplomats are clearly needed vis à vis countries such as Ethiopia and Sudan, where the security development nexus is most apparent.
- The stronger role of EU Delegations will affect the power balance in the cooperation among EU embassies and the EU Delegations in partner countries. On the technical side, member states may be more willing to delegate cooperation or channel funds for budget support to those upgraded Delegations with a higher capacity and stronger mandate for political dialogue. On the political side, member states feeling threatened that the EU might take too much political space may be less willing to engage in division of labour if that

would mean withdrawing or cutting down activities.

However, the following risks for development can be identified:

1. **The Treaty leaves more open than it clarifies.** This holds the danger of increasing incoherence through a proliferation of overlapping activities by a multiplicity of actors. I.e. there is a danger of competition among three leaders in the field of external action, in between the HRFASP and the President of the European Council because they are both responsible for representation in CFSP matters and between the HRFASP and the President of the Commission because of the ambiguous reporting position of the HRFASP. There is a **need to clarify the roles, responsibilities and hierarchies** by legal acts as soon as possible. Such regulations should be the result of a broad consultation in the spirit of the new multi-dimensional external action.
2. Following the ratification of the Lisbon Treaty, the number of Commissioners will be reduced from 27 to 18 by 2014. Some warn of the loss of a **Commissioner for Development Cooperation**. This would be a major issue, as all lead countries in terms of living up to Monterrey commitments have a Minister for Development, standing up for the cause in the Cabinet. It is however likely that Development will retain its Commissioner.
3. There is a strong concern that the consolidation and increased politicisation of the EU external action and CFSP **risk “sidelining commitments on development”**.¹ Given a lack of agreement among EU member states on a clear vision and objectives for development cooperation, as ascertained by the “Wither EC Aid” project, there are concerns that the role of poverty reduction in the policy mix of the EU's external action is under threat. Worse than that, NGOs fear that development cooperation and the funding allocated for it could be instrumentalised to reach foreign policy objectives. It remains to be seen if the HRFASP – appointed by the European Council, which can also dismiss him - can resist the pressure to primarily expand the intergovernmental space rather than promote community policies as a kind of *primus inter pares* in the college of Commissioners. This concern is compounded by the fact that no additional funding seems to be forthcoming to match the more ambitious structure and policy in the CFSP area.
4. The **relationship between Development Commissioner and the HRFASP** will impact on the status and implementation of development cooperation. One concern is that there could be a hierarchy of Commissioners with senior and junior members of the College or a subjugation of all other external action DGs to a predominant DG RELEX promoting security-driven or influence-asserting politics. However, it seems clear that the Development Commissioner will be on an equal footing with other RELEX family Commissioners, to be coordinated by the HRFASP. The question of power relations will to a large extent depend on who controls community spending, the Commission or the HRFASP and the EEAS and on the area and extent of responsibility handed over to the EEAS.

5. Further criticism comes from the language in the Treaty on EU trade and agriculture policies and their potential impact on developing countries, as already stated above
6. The new prominence given to the **ENP** in the Treaty raises some concern with regard to its contradiction to the postulation to “treat Africa as one” of the Joint EU-Africa Strategy. The ENP offers “a deeper political relationship and economic integration”.² The implications for African integration are not at all clear, but it cannot be excluded that potential benefits of the privileged relationship to North Africa would have positive spill-over effects within Africa.
7. The **Joint Africa-EU Strategy** probably exemplifies best the trend towards a multi-dimensional approach to development cooperation, which has merely received recognition in the Lisbon Treaty. The double-hatted new institutions should support this approach. The EU has gained a number of competencies, such as in migration and security policy that will allow it to actually represent the EU MS and move ahead in the Strategy’s eight partnerships. The implementation of the Joint Strategy will be an exercise in EU coherence par excellence, from which lessons can be learnt in the future. The Council is currently working on a set-up to ensure policy coherence between the myriad of Council working groups dealing with Africa and the policy areas of the eight partnerships and between the Council, the Commission and the MS.

This briefing note has been written by Eleonora Koeb. The author would like to thank those EU officials and CSO representatives who provided comments on an earlier draft of this document.

- 1 BOND (November 2007) “International Development and the new EU Reform Treaty”, p2
- 2 “The Policy: What is the European Neighbourhood Policy?”,

http://ec.europa.eu/world/enp/policy_en.htm

Further reading

The numbering of articles refers to the consolidated version of the Lisbon Treaty as compiled by the UK Foreign Office, available under <http://www.statewatch.org/news/2008/jan/eu-lisbon-treaty-consolidated.pdf>.

Tables of equivalences are attached as a first Annex to the Lisbon Treaty as published in the Official Journal of the European Union, Volume 50, 17 December 2007, available under <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML>

For a readable and comprehensive overview see:

Duff, Andrew (2008) “True Guide to the Treaty of Lisbon”, Alliance of Liberals and Democrats in Europe, downloadable from: <http://www.alde.eu/fileadmin/files/Download/True-Guide-NEW.pdf>

For a comprehensive overview on the changes in CFSP and CDSP:

Dagand, Sophie (2008) “The impact of the Lisbon Treaty on CFSP and ESDP”, ISIS Europe – European Security Review no. 37, March 2008, available under www.isis-europe.org/pdf/2008_artrel_150_esr37tol-mar08.pdf

Quille, Gerrard (2008) “The Lisbon Treaty and its implications for CFSP/ESDP”, Directorate-General for External Policies of the Union, Directorate B, Policy Department, European Parliament, February 2008, available at: <http://www.statewatch.org/news/2008/feb/ep-esdp-lisbon-study.pdf>

For analysis of the Treaty see

BOND (November 2007) “International Development and the new EU Reform Treaty”, downloadable from <http://www.bond.org.uk/europe/reformtreaty.htm>

Open Europe (2008) “Trade and development”, parliamentary briefing #6, available at <http://www.openeurope.org.uk/research/intdev.pdf>.

Stocker, Simon (2008) “Strengthening Europe’s aid”, available at www.bond.org.uk/networker/2008/February/strengtheningaid.htm

Santopinto, Federico (2007/5) “Le traité de Lisbonne et l’action extérieure de l’Union européenne”, Rapport du GRIP, available at: www.grip.org/pub/rapports/rg07-5_lisbonne.pdf

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