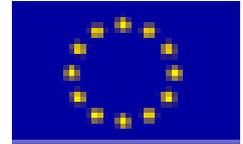


From the Convention to the IGC:
Mapping Cross-National Views
towards an EU-30



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**“COHERENCE BETWEEN EU DEVELOPMENT POLICY
AND OTHER EXTERNAL POLICIES”**

1. The EU development policy as a policy in search of coherence	2
2. Preamble of the EC Treaty.....	3
3. Preliminary draft of the European Constitution.....	3
4. References to development policy	4
5. Working Group on External Action.....	5

1. The EU development policy as a policy in search of coherence

The Commission has highlighted the need of coherence since its first Memorandum on development cooperation. This subject has a multilevel dimension and should be dealt with considering this specific approach. The European Treaties offer some tools in order to tackle with this subject.

- i) Coherence between development policy and other internal competences (such as common agricultural policy) should be achieved through implementation of article 178 TEC («The Community shall take account of the objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries«).
- ii) Coherence between national actions and Community actions in the field of development policy, should be achieved through implementation of article 180 TEC («The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1«).
- iii) Coherence between development policy and other external Community actions should be assured by the Council and the Commission (according to article 3, paragraph 2, TEU: »The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency and shall cooperate to this end. They shall ensure the implementation of these policies, each in accordance with its respective powers. «).
- iv) Coherence among different development measures (sectoral and regional) is currently much more difficult to achieve.

The Convention has now the opportunity to satisfy the broadly shared need of coherence. In almost all the documents submitted to the Convention, we find the word “coherence” as well as the will to enhance it. Time has come to work on how this coherence should be enhanced.

2. Preamble of the EC Treaty

In the preamble of the EC treaty we read that the High Contracting Parties intend »to confirm the solidarity which binds Europe and the overseas countries« and desire »to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations«. As well known, the EC enjoys only those powers conferred by the Treaties. They are listed in article 3 and specified in detail elsewhere in the Treaty. Letter r), introduced by the Maastricht Treaty, refers to »a policy in the sphere of development cooperation«, as defined in articles 177 to 181; letter s) refers to »the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development«, specified in part IV of the Treaty.

Development policy is part of the foreign policy. It can be defined as all those measures aimed at improving the economic and social development of developing countries. These measures can be commercial in character (i.e. the General System of Preferences), unilateral or bilateral (i.e. association agreements). The special legal basis introduced by the Maastricht Treaty does not supersede the other legal basis currently used, but it allows the EU institutions to adopt special development oriented measures.

3. Preliminary draft of the European Constitution

The preliminary draft of the European Constitution, known as “skeleton”, contains one single chapter in part II entitled “External Action”. Up to now, we only know the “label of the box”, not the content. Grouping all the legal basis for external actions is a first step to assure a greater degree of coherence.

Article 3 states the objectives of the Union. They shall be pursued both in the Union internal order, and internationally. In present article 3 we find no express reference to development policy. Paragraph 4 states: »In defending Europe’s independence and interest, the Union shall seek to advance its values in the wider world. It shall contribute to the sustainable development of the earth,

solidarity and mutual respect among peoples, eradication of poverty and protection of children's rights, strict observance of internationally accepted legal commitments, and peace between States«. The values of the Union are listed in article 2 and a particular importance is given to the respect of human rights and democracy, always considered as a basic element of European Union development policy. Paragraph 4 contains an implicit acknowledgement of the development policy being part of foreign policy. Sustainable development of the earth can only be achieved if the efforts are focused on human development. Eradication of poverty is now widely recognized as the primary aim of development policy. But the Union should bear greater responsibility toward developing countries than the one stated in paragraph 4. As some of the amendments propose, and the Working Group on External Action recommends, it would be better to add a reference to »the durable economic and social development of developing country« and/or »to the integration of all countries into the world economy«. Another option could be envisaged: to insert a sentence like »to create an environment which is conducive to development and to the eradication of poverty«, like the one included in the United Nations Millennium Declaration.

4. References to development policy

We find an express reference to development policy in article 12. Article 12 is devoted to "Shared competences" and its paragraph 6 reads as follows: »In the areas of development cooperation and humanitarian aid, the Union shall have competence to take action and conduct a common policy; however, the exercise of that competence may not result in Member States being prevented from exercising their competence. «

According to the conclusions reached by Working Group V on "Complementary competencies", when the Union can adopt supporting measures, it cannot take legislative acts (in other words, in these subject matters the Union does not enjoy any legislative competence). On the contrary, the category of shared competences is residual in character, as it comprises matters which are neither of exclusive competence, nor supporting measures. In case of shared competence, both the Union and Member States enjoy legislative competence. The Working Group considers development coordination as a shared competence, instead of a field of supporting action, because in this matter the Union is empowered with legislative competence. But the Group recognizes that »development cooperation has special features because Union activities in this field would never prevent the competence of the Member States to maintain their own national development policy«.

The Group's reasoning is mirrored in draft article 12, paragraph 6, which recognizes the peculiarity of development policy, but leaves unresolved the issue of coherence between States' and Union's actions. It should be useful to insert in part II of the Constitution a compatibility clause, i.e. like the one we can find in article 176 TEC («Such measures must be compatible with this Treaty«); moreover, it is reasonable to foresee that actual article 180 will be reproduced.

Some amendments to article 12 suggest either to consider development policy as either a shared competence by all means, denying its special character; or to add economic, financial and technical cooperation (in order to mirror the Nice treaty amendment); or to qualify development policy as a field for supporting measures.

I would personally prefer part I to include only general definitions of different categories of competences and part II to specify the various fields of actions.

5. Working Group on External Action

The Working Group VII "External action" attached special consideration to development policy. In its final report, the Group presents some recommendations to the Plenary, some of which devoted to this policy, in view of achieving more coherence.

Firstly, the Group recommends to simplify the administrative and legal instruments currently used for managing EU development programs, and to enhance them. Too many regional and sectoral regulations undermine the coherence of the EU policy, resulting in a contradictory policy. They should be reduced in number and better organized on a strategic programming, in order to maximize common efforts. The main aim of the development policy is the fight against poverty and all the development instruments should be organized around this primary objective.

Secondly, the Group recommends integrating the European Development Fund into the EU general budget. As it is well known, the Treaty of Rome provided for the EDF, the main instrument for Community aid to development cooperation in the ACP countries and in the Overseas Countries and Territories. Even if a heading of the EU budget is reserved to the Fund, it does not come under the EU general budget. It is funded by the Member States, covered by its own financial rules and

managed by a specific committee. About every five years, the Representatives of Member States, meeting within the Council, set the EDF budget, by way of agreements that are subsequently ratified by the national parliament of each Member State. The Community institutions, and especially the European Commission, are associated with the administration of the Fund. This set of things was endorsed by the European Court of Justice: the European Parliament challenged this arrangement on the ground of its illegality according to the Treaty, but its application was dismissed by the Court as unfounded (Case C-316/91, Parliament v. Council, ECR, 1994, I-625).

At the same time, according to the proposal, the management of the Fund should be improved in order to achieve a greater degree of effectiveness and reduce cases of misadministration. It should be focused on fight against poverty, the main objective of EU development policy in general (not only on ACP States assistance), but not at the detriment of the level of assistance now granted to ACP countries.

Thirdly, the Group recommends ensuring coherence between development cooperation and the other EU external actions. As it states, »development assistance should be considered as an element of the global strategy of the Union vis-à-vis third countries«. How to achieve this coherence is part of the general problem of improving coherence of the EU external action.

The Group presents some recommendations aimed at enhancing coherence through a better organization of services. A single person (the “European External Representative”) should perform the role of both the High Representative for Common Foreign and Security Policy and the Commissioner responsible for external relations. The Council should seat in the specific External Action Council. The Vice-President of the Commission should coordinate all external issues dealt with by the Commission. A joint service should be created, called European External Action Service and composed of officials from the Commission, the Council Secretariat and national diplomatic services.

Not all the Working Group’s recommendations are constitutional in character. Some of them are rather administrative issues and could be implemented following the entry into force of the Constitutional Treaty, or even before.

As coherence is a multilevel question, it should be achieved through multilevel reforms.

Administrative reforms of Commission services and a better coordination among all actors of development policy (EU institutions and Member States) are essential in order to achieve a satisfactory degree of coherence.

The general objectives of EU action, as stated in article 3 of the draft Constitutional Treaty, should be specified in part II, in relation to external action in general and development policy in particular. A strategic programming (annual or multiannual) should constitute the framework of both Union and Member States actions. This document should contain the definition of objectives and interests in relation to a specific region, country, situation or theme, the assessment of the impact of internal actions on development policy, the evaluation according to the subsidiarity principle, in order to ensure that Community action adds value to national actions.

A specific mechanism should be created, in order to oversee and monitor the implementation of the strategic program. To introduce an open method of coordination into the Union's development policy could be a good solution.