

# EU Development Cooperation after Lisbon: The Role of the European External Action Service

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# **EU Development Cooperation after Lisbon: The Role of the European External Action Service**

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## About the Author

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## **Abstract**

As a result of the Lisbon Treaty, the High Representative of the Union for Foreign Affairs and Security Policy and the newly established European External Action Service (EEAS) have been granted participation in the programming and management cycle of the European Union's (EU) instruments for development cooperation. This paper analyses the extent to which these reforms are likely to help or hinder the achievement of the primary objective of the EU's development cooperation: the reduction and, in the long term, the eradication of poverty. With the loss of development policy's independent status, the underlying hypothesis of many representatives of the development community is that the poverty focus of EU development cooperation will be undermined by the emergence of a dominant and unchecked EEAS in the programming and management cycle of development cooperation instruments. This paper, however, shows that the loss of development policy's independent status does not necessarily lead to a weakening of the EU's commitment to poverty eradication. It is argued that if an institutional capacity is put in place to maintain the system of checks and balances in the programming cycle alive and, by consequence, to ensure that aid regulations reflect a clear focus on poverty eradication, development cooperation could in fact even benefit from the Lisbon reforms. To this end, the paper offers a set of policy recommendations for the institutional architecture of the EEAS.

## 1. Introduction: a threat to poverty eradication?

“[S]ecurity is the first condition for development. Diplomatic efforts, development, trade and environmental policies, should follow the same agenda. In a crisis there is no substitute for unity of command.”<sup>1</sup>  
(European Security Strategy, December 2003)

Between 1 December 2009, when the Lisbon Treaty entered into force, and 26 July 2010, when the Council Decision establishing the organisation and functioning of the European External Action Service was finally adopted, a full-fledged battle took place over the control of the multi-billion EU development funds. After months of institutional infighting, the Council Decision of 26 July 2010 establishing the organisation and functioning of the EEAS granted the High Representative of the Union for Foreign Affairs and Security Policy and the newly established diplomatic service participation in the programming and management cycle of instruments for development cooperation like the European Development Fund (EDF) and the Development Cooperation Instrument (DCI) as well as other financial instruments.<sup>2</sup>

What will be the impact of these reforms upon the EU's longest standing external policy? Without any doubt, the Lisbon Treaty has made available the means to transform development cooperation from an independent policy into a component of the EU's wider foreign policy toolbox, placed under the strategic “unity of command” which the European Security Strategy envisaged back in 2003.<sup>3</sup>

Although these reforms have been supported by the Council and the European Parliament<sup>4</sup> in the name of greater consistency in the Union's external action, they were strongly criticised by a number of analysts and development non-governmental organisations (NGOs) for being contrary to the spirit of the Lisbon Treaty or even outright illegal.<sup>5</sup> The reasons at the heart of such controversy have been nicely summarised by Dieter Frisch, former Director of the European

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<sup>1</sup> European Council, *A Secure Europe in a Better World: European Security Strategy*, Brussels, 12 December 2003 [not published in the Official Journal].

<sup>2</sup> Council of the European Union, “Council Decision 2010/427/EU of 26 July 2010 Establishing the Organisation and Functioning of the European External Action Service”, *Official Journal of the European Union*, L 201, 3.8.2010, Art. 9.

<sup>3</sup> European Council, *A Secure Europe in a Better World*, *op.cit.*

<sup>4</sup> European Parliament, “MEPs give conditional backing to EU diplomatic service”, *Press Release*, 23 March 2010.

<sup>5</sup> See M. Van Reisen, “Note on the legality of inclusion of aspects of EU Development Cooperation and Humanitarian Assistance in the European External Action Service”, *European External Policy Advisers*, Brussels, 5 March 2010; and CIDSE, “Lawyers say Ashton's EEAS proposal contradicts Lisbon Treaty”, *Coopération Internationale pour le Développement la Solidarité (CIDSE)*, Press Release, 23 April 2010.

Commission's Directorate General for Development (DG DEV): "if development comes out of isolation and on an equal footing with other dimensions of foreign relations, it would be positive, but if it is eaten up, it would be a disaster".<sup>6</sup>

The main concern for those ringing the alarm bell is the incommensurable differences between foreign policy and development policy. First, in terms of interests and objectives at stake: it is alleged that foreign policy-makers, whose primary objective is to safeguard the interests of European citizens, cannot be responsible for development policy, which is about promoting the interests of people in developing countries.<sup>7</sup> Second, in terms of working methods and timeframes: James Mackie from the European Centre for Development Policy Management (ECDPM) argues that "the usually short timeframes in which many foreign policy actions operate are at odds with the longer timeframes necessary for sustainable development".<sup>8</sup> In a large foreign service, where staff are moved around without recognition of the specialised nature of development cooperation, Mackie observes, the quality of programming is adversely affected.<sup>9</sup>

The underlying hypothesis is that the loss of development policy's independent status poses a threat to the EU's commitment to poverty eradication, in spite of the primacy the Treaty accords to it. This paper analyses the extent to which the participation of the EEAS in the development policy process, and especially in programming, is likely to help or hinder the achievement of the primary objective of the EU's development cooperation: the reduction and, in the long term, the eradication of poverty.

To critically assess the above hypothesis, the paper first analyses the provisions of the Council Decision of 26 July 2010 establishing the EEAS, it then vivisection the development policy process into its main components and looks closely at the decision-making process for the Financial Perspectives, aid regulations and programming in the pre- and Lisbon set-ups. This enables us to conduct a forward-looking scenario exercise about the influence of the EEAS over the development policy process, and the extent to which it is likely to hinder the objective of poverty

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<sup>6</sup> Friends of Europe, "Is EU Development Aid Entering a New Era in the Wake of the Lisbon Treaty?", *Report of the First Development Policy Forum*, Bibliothèque Solvay, Brussels, 26 February 2008.

<sup>7</sup> Simon Stocker in D. Cronin, "Development: EU Playing Aid Politics with Aid Policy", *Inter Press Service*, 30 March 2010, retrieved 16 April 2010, <http://ipsnews.net/news.asp?idnews=50848>.

<sup>8</sup> J. Mackie, H. Baser, J. Frederiksen and O. Hasse, "Ensuring that Development Cooperation Matters in the New Europe", Maastricht, *European Centre for Development Policy Management*, October 2003, p. 11.

<sup>9</sup> *Ibid.*, p. 18.

eradication by affecting existing poverty allocation criteria for Official Development Assistance (ODA), adherence to the OECD-DAC definition of ODA, and the principles of ownership in programming. The scenario exercise is complemented by a set of policy recommendations.

The paper shows that the loss of development policy's independent status does not necessarily lead to a weakening of the EU's commitment to poverty eradication and that there are a number of safeguards that can prevent a scenario in which a dominant EEAS would undermine the objective of poverty eradication. If an institutional capacity is put in place to maintain the system of checks and balances in the programming cycle and, by consequence, to ensure that aid regulations reflect a clear focus on poverty eradication, development cooperation could in fact even benefit from the Lisbon reforms.

## **2. The EEAS's role in development cooperation**

With the ratification of the Lisbon Treaty, the long-coveted idea of bringing together the different EU's external action instruments in a unity of command seems to have come true. With the adoption of the Council Decision establishing the functioning and organisation of the EEAS on 26 July 2010,<sup>10</sup> the new service will in fact have responsibility over the EU's civilian and military crisis management capabilities, EU delegations and special representatives and, more importantly, the purse strings of development cooperation.

By the parsimonious letter of the Lisbon Treaty, the EEAS is mandated to assist the High Representative in fulfilling his or her mandate.<sup>11</sup> The Presidency report of October 2009 explicitly left the responsibility for trade and development to the relevant Commissioners and DGs of the Commission, but it indicated that the EEAS should play a leading role in strategic decision-making and thus be involved in the whole programming chain for development cooperation instruments through the creation of single geographical and thematic desks.<sup>12</sup>

In the first months of 2010, the role of the EEAS in programming development cooperation instruments soon became one of the major bones of contention. In

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<sup>10</sup> Council of the European Union, "Council Decision 2010/427/EU of 26 July 2010 Establishing the Organisation and Functioning of the European External Action Service", *op.cit.*

<sup>11</sup> European Union, "Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union of 13 December 2007", *op.cit.*, Art. 20 TEU.

<sup>12</sup> European Council, *Presidency report to the European Council on the European External Action Service*, 14930/09, Brussels, 23 October 2009.

early March 2010, Catherine Ashton circulated vision papers outlining three possible scenarios for the EEAS's involvement in the programming cycle:<sup>13</sup>

- a horizontal model with the EEAS responsible for resource allocation only and the Commission responsible for regional and national programming and implementation;
- a horizontal model with the EEAS responsible for resource allocation as well as regional and national programming and the Commission responsible for implementation;
- a vertical model, with the Commission responsible for all stages of programming for the EDF, and the EEAS responsible for all stages of programming for the DCI.

The vertical model was rapidly discarded as anachronistic. It would have in fact perpetuated the artificial institutional divide between African, Caribbean and Pacific (ACP) countries, under the EDF, and the rest of developing countries, under the DCI.<sup>14</sup> In the discourse over the EEAS, the imperative of avoiding duplication, inefficiency and wasteful use of resources, and that of making the EEAS an ambitious tool for the Union's external action, won the hearts and minds of the European Parliament.<sup>15</sup>

The draft proposal for a Council Decision on the EEAS of 25 March 2010 was based on the second option, a horizontal model with the EEAS being responsible for resource allocation as well as regional and national programming, leaving the Commission responsible for implementation.<sup>16</sup> The historic significance of this proposal was shadowed by the even greater controversies stirred by the presentation of an EEAS organigramme. Before the Foreign Affairs Council and General Affairs Council of 26 and 27 April 2010, to win over the staunchest opponents to a French-style EEAS built around a powerful secretary general, Ashton withdrew

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<sup>13</sup> "Member states and EU Commission clash over diplomatic service", *EUobserver*, 2 March 2010.

<sup>14</sup> M. Gavás and E. Koeb, "Setting up the European External Action Service: Building a Comprehensive Approach to EU External Action", *Overseas Development Institute (ODI)* and *European Centre for Development Policy Management (ECDPM)*, 16 March 2010, p. 6.

<sup>15</sup> European Parliament, "MEPs give conditional backing to EU diplomatic service", *Press Release*, 23 March 2010.

<sup>16</sup> Council of the European Union, *Proposal for a Council Decision Establishing the Organisation and Functioning of the European External Action Service*, [not published in the Official Journal of the European Union], Art. 8(4).



the organigramme.<sup>17</sup> Nonetheless, the responsibility of the EEAS in programming development instruments remained unchallenged and was finally engraved in the Council decision on the EEAS of 26 July 2010.

Contrary to a more restrictive interpretation which would see the EEAS's scope limited to the domain of the Common Foreign and Security Policy (CFSP), the Council decision on the establishment of the EEAS mandates the new service with the task of assisting the High Representative also in her capacity as Vice-President of the Commission,<sup>18</sup> and it creates single geographical desks under her authority.

In addition, the decision grants the EEAS competence to contribute, jointly with the relevant Commission services, to the programming and management cycle for several geographic and thematic instruments, including the EDF and the DCI,<sup>19</sup> and responsibility for the preparation of country allocation, country and regional strategic papers and national and regional indicative programmes. Significantly, the decision extends to the EEAS also the responsibility for preparing proposals on the basic regulations for the EDF and the DCI.<sup>20</sup> The most significant passages of the Council Decision establishing the EEAS, Article 9, state:

3. In particular, the EEAS shall contribute to the programming and management cycle for the instruments referred to in paragraph 2, on the basis of the policy objectives set out in those instruments. It shall have responsibility for preparing the following decisions of the Commission regarding the strategic, multiannual steps within the programming cycle:

(i) country allocations to determine the global financial envelope for each region, subject to the indicative breakdown of the multiannual financial framework. Within each region, a proportion of funding will be reserved for regional programmes;

(ii) country and regional strategic papers;

(iii) national and regional indicative programmes.

In accordance with Article 3, throughout the whole cycle of programming, planning and implementation of the instruments referred to in paragraph 2, the High Representative and the EEAS shall work with the relevant members and services of the Commission without prejudice to Article 1(3). All proposals for decisions will be prepared by following the Commission's procedures and will be submitted to the Commission for adoption.

4. With regard to the European Development Fund and the Development Cooperation Instrument, any proposals, *including those for changes in the basic regulations and the programming documents* [emphasis added] referred to in paragraph 3, shall be prepared jointly by the relevant services in

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<sup>17</sup> "Ashton presents new architecture for EU diplomatic service", *EurActiv*, 23 April 2010, retrieved 25 April 2010, <http://www.euractiv.com/en/foreign-affairs/ashton-presents-new-architecture-eu-diplomatic-service-news-473058>.

<sup>18</sup> Council of the European Union, "Council Decision 2010/427/EU of 26 July 2010 Establishing the Organisation and Functioning of the European External Action Service", *op.cit.*

<sup>19</sup> *Ibid.*, Art. 9.

<sup>20</sup> *Ibid.*

the EEAS and in the Commission under the responsibility of the Commissioner responsible for Development Policy and shall be submitted jointly with the High Representative for adoption by the Commission.

To grasp the full implications of these provisions and observe whether they are likely to help or hinder the EU development policy's objective of poverty eradication, we vivisection the development policy process and analyse what influence the EEAS will have upon each of the steps.

### 3. Methodology

The objective of poverty eradication was embraced by the European Community in 2000 and later enshrined in the European Consensus on Development of 2005 and the Lisbon Treaty of 2007.<sup>21</sup> This was the result of the post-Millennium development consensus embodied in the Millennium Declaration and the Millennium Development Goals (MDGs).

Building upon the methodology of the *2015-Watch Report of Alliance 2015*,<sup>22</sup> we measure the poverty-focus of the EU development policy by looking at parameters like the volume of ODA, the inclusion of poverty eradication and of policy coherence for development (PCD) into primary law and development policy documents, the existence of poverty allocation criteria for ODA such as standard and objective criteria for aid distribution between countries which take into account the special needs of the Least Developed Countries (LDCs), adherence to the OECD-DAC definition of ODA, and the principles of ownership in programming.

This biggest concern inherent to the EEAS's responsibility over aid regulations and programming is the risk of development funds being distorted to serve the EU's self-interest rather than that of developing countries. Below we briefly summarise some examples of EU interests which are likely to encroach upon the objective of poverty eradication:

- *Geopolitical interests:* As opposed to other donors, the EU spreads its aid more evenly, and does not make strategic alliance a criterion for disbursements. Nevertheless, geographical proximity and historical links play an important role in determining European aid allocation to different regions with the member states

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<sup>21</sup> European Parliament, Council of the European Union, European Commission, "Joint declaration by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on the development policy of the European Union entitled 'The European Consensus'", *Official Journal of the European Union*, C 46, Brussels, 24 February 2006.

<sup>22</sup> Alliance 2015, "2015-Watch Methodology and Scoring System", retrieved 25 January 2010, <http://www.alliance2015.org/index.php?id=55>.

competing for the agenda.<sup>23</sup> Since the early 1990s, European Community (EC) aid has been re-oriented from Africa to the East as a result of declining interest in Africa and growing interest in the neighbourhood following the end of the Cold War,<sup>24</sup> and the prospect of eventual integration into the Union.<sup>25</sup>

- *Geo-economic and commercial interests*, especially "in an era of heightened geo-economic competition",<sup>26</sup> are likely to play a growing role. Some authors, for example, allege that the EU exploited aid to pursue trade-related interests when branding European Development Fund (EDF) resources as a "sweetener" to force ACP countries to sign the Economic and Partnership Agreements (EPAs) in 2007.<sup>27</sup>
- *Securitisation* refers to the use of development funds for crisis management and conflict prevention. Textbook examples are the 9<sup>th</sup> EDF funding to the African Peace Facility, the EU support to African Union peace operations or alleged cases of development funds being used for counter-terrorism purposes by the local government.<sup>28</sup>
- *Political conditionality*, whether negative or positive, adds another element of flexibility to the measurable and objective criteria of resource allocation to developing countries.
- *Visibility* leads development or humanitarian aid to look for high-profile crises or countries while neglecting equally deserving alternatives, and can also be a motive for hijacking resources destined to development within the same country. An example is the 2008-2013 CSP for Brazil which allocated 70% of resources to the priority of 'enhancing bilateral relations', funding institutional and civil society exchanges, and a European Studies Institute to raise the EU's profile in Brazil.<sup>29</sup>

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<sup>23</sup> Northern member states are usually more generous with Eastern Europe, whereas Italy and Spain prefer maintaining a balance with the Mediterranean, Spain insists also on cooperation with Latin America; Africa remains a priority for France and the United Kingdom; Least Developed Countries for Scandinavian donors, in M. Van Reisen, *EU 'Global Player': the North-South policy of the European Union*, Utrecht, International Books, 1999, p. 37.

<sup>24</sup> G.R. Olsen, "Challenges to Traditional Policy Options, Opportunities for New Choices: the Africa policy of the EU", *The Round Table*, 93:375, 2004, p. 428.

<sup>25</sup> European Think-Tanks Group, "New Challenges, New Beginnings: Next Steps in European Development Cooperation", February 2010, p. 84.

<sup>26</sup> P. Holden, *In Search of Structural Power: EU Aid Policy as a Global Political Instrument*, Aldershot, Ashgate, 2009, p. 182.

<sup>27</sup> *Ibid.*

<sup>28</sup> See European Parliament Committee on Development, *Report of the European Parliament Committee on Development on the Assessment of Draft Country and Regional Strategy Papers/Indicative Programmes*, retrieved 25 April 2010, <http://www.asia-programming.eu/wcm/dmdocuments/DEVE%20conclusions%20Philippines.pdf>.

<sup>29</sup> European Parliament, *Resolution on the Draft Commission Decisions establishing Country Strategy Papers and Indicative Programmes for Malaysia, Brazil and Pakistan*, *op.cit.*

- *Control of migration* is another self-interested reason to impinge on development aid. The DCI, under its thematic programmes, provides for support of third countries to ensure better control of migration flows.<sup>30</sup> The same goes for the EDF, which Concorde fears might be used to foster legislation to control illegal migration, a core concern for the EU<sup>31</sup>.

Development policy is one of the few policy domains where the EU can draw on the power of the purse, a financial muscle upon which other interests and policies are naturally bound to impinge, as the examples above have shown. A degree of incoherence is unavoidable as long as different agendas, interests and objectives coexist within a wider EU foreign policy. However, the process of institutional engineering triggered by the ratification of the Lisbon Treaty might tilt the balance in favour of one or another of these objectives, to the detriment of poverty eradication.

To observe whether the EEAS's responsibility over aid regulations and programming will help or hinder the objective of poverty eradication, we divide the development policy process into seven distinct phases: legal framework, development policy documents, financial framework, aid regulation, programming, implementation, and evaluation (see Figure 1). Our research touches upon the legal framework and the development policy documents only when relevant to the discourse, and it is deliberately not extended to implementation and evaluation as we deemed the information too scarce at the time of writing. A full analysis will only be possible after the 2013 round of programming will be completed.

Our main focus is therefore on the Financial Perspectives, the aid regulation and programming of Country/Region Strategy Papers for the EDF and DCI. The EDF and DCI have been selected because these two are explicit development instruments and, as the examples show, are most likely to be instrumentalised for objectives other than poverty eradication.

After observing the decision-making process for these key elements and determining who does what at each stage of the development policy process in the

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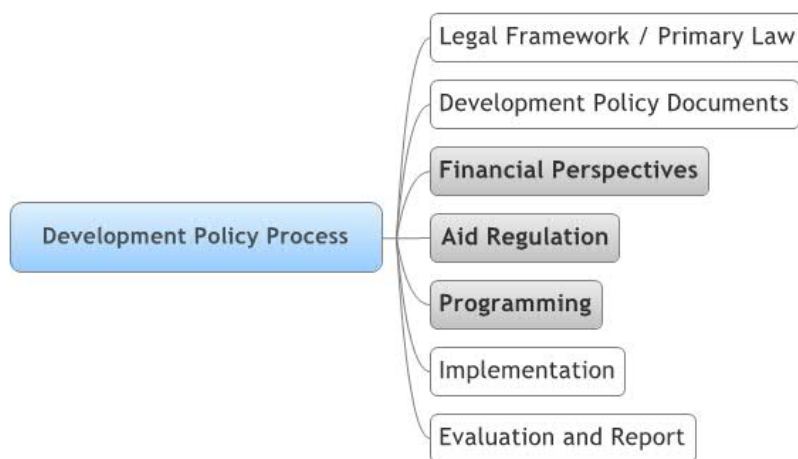
<sup>30</sup> Council of the European Union, "Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation", *Official Journal of the European Union*, L 378/41, Brussels, 27 December 2006, Article 16.

<sup>31</sup> Concorde, "The Revision of the Cotonou Partnership Agreement", *Concorde Cotonou Working Group*, Briefing Paper, February 2010, retrieved 1 May 2010, [http://www.fes.de/cotonou/DocumentsEN/Official%20ACP-EU%20Documents/Further%20EU%20Documents/Concord-Cotonou-Working-Group\\_Briefing-paper\\_Revision-of-the-Cotonou-Partnership-Agreement\\_Feb10.pdf](http://www.fes.de/cotonou/DocumentsEN/Official%20ACP-EU%20Documents/Further%20EU%20Documents/Concord-Cotonou-Working-Group_Briefing-paper_Revision-of-the-Cotonou-Partnership-Agreement_Feb10.pdf).

pre-Lisbon set-up, we explore the role of the EEAS in the new set-up and then conduct a forward-looking scenario-exercise about development policy in the Lisbon context.

The continuously evolving nature of the subject generates a knowledge gap. At the time of writing the structuring of the EEAS is still on-going, and the reshuffling of Commission services has not been completed either. To fill the gap, the scenarios are based on interviews with officials from the European Commission, the European Parliament, the General Secretariat of the Council, representatives of the member states, and development practitioners, conducted between February and May 2010.

**Figure 1: Seven phases of the development policy process**



Source: author's compilation

## 4. The EU development policy process

### 4.1 *Financial Perspectives*

The Financial Framework or Financial Perspective is a multi-annual spending plan that translates the Union's policy priorities into financial terms.<sup>32</sup> It is negotiated and adopted by the "Budget Authority", the Council and the European Parliament, upon a proposal from the Commission.

For the 2007-2013 Financial Perspective, the Prodi Commission suggested a simplified external action architecture based on six instruments<sup>33</sup> in which a number

<sup>32</sup> European Commission, *Financial Programming and Budget: Glossary*, retrieved on 2 October 2010, [http://ec.europa.eu/budget/other\\_main/glossary\\_en.htm](http://ec.europa.eu/budget/other_main/glossary_en.htm)

<sup>33</sup> Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament: Building our Common Future: Policy Challenges and Budgetary Means of the Enlarged Union 2007-2013*, *op.cit.*

of geographical and thematic instruments would be merged into a “catch-all” economic development and cooperation instrument (EDCI) which was to cover developmental, environmental and security issues,<sup>34</sup> not only vis-à-vis developing but also industrialised countries. The proposal also foresaw the so-called “budgetisation” of the EDF, its integration into the EDCI, and therefore into the EU budget, which the Commission had for a long time advocated.<sup>35</sup> The EDF was at the time (and still is) intergovernmentally run by EU member states and administered by the European Commission on their behalf.

In the end, the Commission’s proposal was pulled apart by the member states which ruled out the EDF’s “budgetisation”, and by the European Parliament’s Committee on Development that struggled to give the EDCI a more purely developmental focus.<sup>36</sup> As a result, the EDCI was replaced by the DCI, based on Art. 179 of the Nice Treaty, with a more developmental focus, and the EDF remained outside the EU budget.

The impact of the EEAS on the next Financial Perspective is rather incidental. Looking ahead to 2014, it remains to be seen whether the more ambitious international profile of the new Lisbon set-up will be matched with enhanced financial means. The risk is that the establishment of the EEAS will not be “budget neutral” and the competition for scarce resources, especially in times of economic crisis, will go to the detriment of development objectives.

The number of instruments itself can be another matter of concern. Holden argues that a consolidation of existing instruments would make them more flexible<sup>37</sup> as consolidated instruments tend to have larger and more catch-all objectives resulting in looser poverty commitments. Following this argument, it is feared that the poverty focus of the EDF might be at risk if it would be integrated into the EU budget where funds have a greater potential to be captured by differing priorities.<sup>38</sup> The EDF budgetisation is likely to be back on the agenda for negotiations over the next Financial Perspective.

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<sup>34</sup> Holden, *op.cit.*, p. 173.

<sup>35</sup> European Commission, *Communication from the Commission to the Council and the European Parliament: Towards the full integration of co-operation with ACP countries in the EU budget*, COM(2003) 0590 final, Brussels, 8 October 2010.

<sup>36</sup> Holden, *op.cit.*, p. 174.

<sup>37</sup> *Ibid.*

<sup>38</sup> European Think-Tanks Group, *op.cit.*, p. 65.

## 4.2 Aid Regulation

Whereas the negotiations within the Budget Authority set the Financial Framework ceiling for the external action heading and its internal repartition, the aid regulation adopted for each instrument determines the specific objectives and scope as well as criteria for country allocation and resources for thematic programmes.

### 4.2.1 Drafting the aid regulation

The DCI has been adopted under co-decision. Negotiations for the successor instruments to the DCI and European Instrument for Democracy and Human Rights (EIDHR) are likely to start in 2011. By then, according to the Council Decision of 26 July 2010,<sup>39</sup> which extends to the EEAS responsibility for the preparation of any proposal and programming document, we may expect the new service to play a key role in the drafting of the successor instrument. A senior administrator of the European Parliament's Committee on Development foresees the possibility of friction and lengthy negotiations with the Committee, as it was the case for the DCI regulation before it entered into force in 2007, if the EEAS would gain the upper hand.<sup>40</sup>

As opposed to the DCI, the EDF is regulated by an international agreement between the EU and the ACP countries, the Cotonou Partnership Agreement, and an internal agreement between EU member states establishing a multi-annual framework for contributions which runs parallel to the EU budget instruments. The last such agreement, referred to as 10<sup>th</sup> EDF, runs from 2008 to 2013.<sup>41</sup> The Cotonou Agreement (2000-2020) is reviewed every five years. The Commission negotiated the 2005 and 2010 reviews on behalf of the EU.<sup>42</sup> Based on the 2010 review calendar, we can expect negotiations for the 2015 review to take place between May 2014 and

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<sup>39</sup> Council of the European Union, "Council Decision 2010/427/EU of 26 July 2010 Establishing the Organisation and Functioning of the European External Action Service", *op.cit.*

<sup>40</sup> Interview with a Senior administrator, Committee on Development, European Parliament, Brussels, 4 May 2010.

<sup>41</sup> "Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community aid under the multiannual financial frame work for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies", *Official Journal of the European Union*, L 247/32, Brussels, 9 September 2006.

<sup>42</sup> "EU-ACP agreement on the second revision of the Cotonou Agreement", Presidencia Espagnola, documents and videos, 19 March 2010, retrieved 28 April 2010, <http://www.eu2010.es/en/documentos/noticias/noticias/mar19cotonu.html>

May 2015.<sup>43</sup> By then, the EU will have a fully-fledged EEAS which could take up the negotiations with the ACP countries.

#### 4.2.2 Objectives

The objective of poverty eradication is central to both the DCI and EDF. Poverty eradication is the primary and overarching goal of cooperation under the DCI. This objective is translated into a commitment to make 100% of the geographic programmes and a minimum of 90% of the thematic programmes ODA-eligible. Despite this provision, however, DCI programming documents in several cases lacked a clear focus on poverty eradication and the MDGs.<sup>44</sup>

Cooperation under the EDF is centred on the objective of reducing, and eventually eradicating, poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.<sup>45</sup> The Internal Agreement for the 10<sup>th</sup> EDF called for the largest extent possible of its resources to be ODA-eligible.<sup>46</sup> Nonetheless, the EDF remains flexible enough to finance activities which are not ODA-eligible.

The 2005 Cotonou Agreement review confirmed the strong poverty-oriented focus of the cooperation, with an additional reference to the MDGs in the preamble and the annexes, but at the same time enlarged the scope of the partnership to less strictly developmental issues like proliferation of weapons of mass destruction,<sup>47</sup> the International Criminal Court,<sup>48</sup> and the fight against international terrorism and mercenary activities,<sup>49</sup> a tendency that could be supported by an EEAS prone to exert the EU's political influence.

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<sup>43</sup> "Preparation negotiating mandate (late 2008), approval mandates in February 2009, notification of areas for change to other party in February 2009, two months to react and add related issues, negotiations: May 2009 – May 2010, signing during 2010 Joint ACP-UE Council of Ministers", in Geert Laporte, "The 2010 Review of the Cotonou Partnership Agreement", power point presentation, Maastricht, ECDPM, 19 May 2009, retrieved 23 April 2010, [http://www.ecdpm.org/Web\\_ECDPM/Web/Content/Download.nsf/0/1D8D914408FAA0F0C12575F60032C640/\\$FILE/ECSC%20Revision%20Cotonou%202010.ppt](http://www.ecdpm.org/Web_ECDPM/Web/Content/Download.nsf/0/1D8D914408FAA0F0C12575F60032C640/$FILE/ECSC%20Revision%20Cotonou%202010.ppt)

<sup>44</sup> European Think-Tanks Group, *op.cit.*, p. 54.

<sup>45</sup> European Community and ACP Group of States, *Agreement Amending the EC-ACP Partnership Agreement Signed in Cotonou on 23 June 2000*, Luxembourg, 25 June 2005, Title I, Art. 1.

<sup>46</sup> Interview with Domenico Rosa, DG Development, European Commission, 16 March 2010.

<sup>47</sup> European Community and ACP Group of States, *Agreement Amending the EC-ACP Partnership Agreement signed in Cotonou on 23 June 2000*, *op.cit.*, Art. 11.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*



#### 4.2.3 Criteria for country allocation

For the DCI, it is the regulation itself that establishes, through a process of political negotiation, the repartition of resources between thematic and geographic programmes. For the EDF, it is the internal agreement between EU member states that allocates resources between national, regional and intra-ACP programmes.

When it comes to resource allocation between countries, the 2005 European Consensus on Development establishes that standard, objective and transparent resource allocation criteria, based on needs and performance, shall guide the allocation.<sup>50</sup> This requirement is translated into the DCI regulation and into Annex IV of the Cotonou Agreement, which lists a number of criteria to define needs and performance.

DG DEV uses an algorithm to break down the total envelope based on standard criteria like the size of the population and income per capita. The principles guiding EDF programming also provide for special treatment to be accorded to LDCs as well as islands and landlocked countries, which can amount to increases on the baseline of 5% and 10% respectively.<sup>51</sup>

The DCI regulation included from its inception conflict sensitivity as one of the needs criterion. For the EDF, it was the 2005 review that introduced a provision whereby “account shall be taken of the particular difficulties of countries dealing with the aftermath of conflict or natural disaster”.<sup>52</sup>

With regard to performance, a difference exists between objective criteria like economic and social performance, which are all based on measurable indicators, and political performance, which is of a more qualitative nature. The DCI regulation took good governance into account from the beginning, whereas for the ACP countries, it was only the 10<sup>th</sup> EDF that introduced a specific incentive tranche based on governance performance.<sup>53</sup> Additionally, the 2005 Cotonou review introduced provisions to increase a country’s or region’s allocation “in order to take account of special needs or exceptional performance”.<sup>54</sup> Once again, it is likely that an EEAS

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<sup>50</sup> European Parliament, Council of the European Union, European Commission, *The European Consensus*, *op.cit.*, point 64.

<sup>51</sup> Interview with Domenico Rosa, DG Development, European Commission, 16 March 2010.

<sup>52</sup> European Community, ACP Group of States, Agreement Amending the EC-ACP Partnership Agreement signed in Cotonou on 23 June 2000, Luxembourg, 25 June 2005, Annex IV, Art. 3.

<sup>53</sup> Interview with Domenico Rosa, DG Development, European Commission, 16 March 2010.

<sup>54</sup> European Community, ACP Group of States, Agreement Amending the EC-ACP Partnership Agreement signed in Cotonou on 23 June 2000, Luxembourg, 25 June 2005, Annex IV.

prone to exercise a more political role will make more frequent use of these instruments.

#### 4.3 *Thematic Programmes*

Thematic programmes are by nature more flexible than their geographical counterparts. To accommodate this demand for more flexibility, the DCI regulation allows for up to 10% of its thematic programmes to be non-ODA eligible.<sup>55</sup> A similar case applies to the intra-ACP envelope of the 9<sup>th</sup> EDF, which critics described as a pocket to finance activities which reflected newly emerged EU priorities, like the Joint Africa Europe Strategy (JAES)<sup>56</sup> or the African Peace Facility (APF).<sup>57</sup> On top of that, the intra-ACP envelope under the 9<sup>th</sup> EDF was not programmed, thus undermining the principle of ownership.<sup>58</sup> With the 10<sup>th</sup> EDF, the intra-ACP envelope is programmed by the Commission and the ACP Committee of Ambassadors in Brussels. It is likely that programming the intra-ACP envelope for the successor to the 10<sup>th</sup> EDF might be affected by the participation of the EEAS, which is likely to be more sensitive than DG DEV to pressures coming especially from member states to use thematic programmes for EU priorities beyond development.

#### 4.4 *Programming*

Programming translates the objectives of the aid regulations into strategic objectives of cooperation with a given country or region. The programming cycle determines the final allocations per country as well as between focal sectors, based on the criteria set out by the aid regulation. Programming is the most important as well as the most 'vulnerable' stage of the development policy process.

The 2008-2013 round of programming provides an array of examples of how resources allocated to development cooperation can be instrumentalised to promote objectives other than poverty eradication. For instance, the initial draft CSPs

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<sup>55</sup> Council of the European Union, *Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation, op.cit.*

<sup>56</sup> totalling 22% of the 9th EDF, in Concord, "Intra ACP-Funds", Briefing Paper, Concorde Cotonou Working Group, 15-20 March 2008.

<sup>57</sup> European Community, ACP Group of States, *Decision on the use of resources from the long-term development envelope of the ninth EDF for the creation of a Peace Facility for Africa*, No 3/2003, Brussels, 11 December 2003.

<sup>58</sup> Interview with Domenico Rosa, DG Development, European Commission, 16 March 2010.

for Bangladesh<sup>59</sup> and the Philippines<sup>60</sup> made explicit reference to the objective of fighting terrorism. The European Parliament's Committee on Development raised concerns about the CSP for India which funded the Erasmus Mundus student exchange programme, from which European students could have benefited.<sup>61</sup> But even more telling is the example of the Special Measure 2007 for Iraq which selected, as one area for intervention, a feasibility study for the Akkas gas field, with the overall objective of studying the conditions for exploration of the field and linking its output to the Syrian gas pipeline network, a project with a dubious link to the objective of poverty eradication.<sup>62</sup>

The Council Decision of 26 July 2010 confers to the EEAS the responsibility to determine the global financial envelope for country and regional allocations, and to prepare country and regional strategy papers (CSPs, RSPs) and national and regional indicative programmes. Country and regional allocations are conducted according to criteria established by the aid regulations themselves, Regulation (EC) No 1905/2006 for the DCI, and Annex IV of the Cotonou Agreement for EDF.

CSPs/RSPs have been the common framework for the management of the EU's external cooperation programmes since 2000. CSP/RSPs contain strategic assessments of the political and economic situation of a country or region for five to seven years and general lines for the intended response.<sup>63</sup> CSPs are the framework for both EDF and DCI. Although this has brought a degree of administrative harmonisation between the two instruments,<sup>64</sup> substantial differences continue to persist:

- EDF programming is a joint exercise with the partner countries and consultation with the local authorities and non-state actors is obligatory, whereas for DCI programming is only a policy prescription;

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<sup>59</sup>European Parliament Committee on Development, 'Abstract - Bangladesh, Report on the Assessment of Draft Country and Regional Strategy Papers/Indicative Programmes, Brussels, 2006, <http://www.asia-programming.eu/wcm/dmdocuments/DEVE%20conclusions%20Bangladesh.pdf>.

<sup>60</sup> European Parliament Committee on Development, 'Abstract - Philippines' Report on the Assessment of Draft Country and Regional Strategy Papers/Indicative Programmes, Brussels, 2006, <http://www.asia-programming.eu/wcm/dmdocuments/DEVE%20conclusions%20Philippines.pdf>.

<sup>61</sup> European Parliament Committee on Development, 'Abstract - India, Report on the Assessment of Draft Country and Regional Strategy Papers/Indicative Programmes, Brussels, 2006.

<sup>62</sup> European Parliament, "Resolution of 25 October 2007 on the draft Commission decision establishing a Special Measure 2007 for Iraq", *Official Journal of the European Union*, P6\_TA(2007)0481, Brussels, 25 October 2007, Art. 1.

<sup>63</sup> M. Gavas and E. Koeb, "Setting up the European External Action Service", *op.cit.*, p. 4.

<sup>64</sup> European Think-Tanks Group, *op.cit.*, p. 65.

- EDF programming excludes any role for the European Parliament, whereas the Parliament's Committee on Development has an overview over DCI programming documents, which results in a set of suggestions and recommendations to the Commission, and - in cases where the Parliament estimates that the Commission has exceeded its implementing powers - in a parliamentary resolution requesting the Commission to withdraw or modify its draft decision. The Lisbon Treaty, however, might change the role of the European Parliament in the programming cycle.<sup>65</sup>
- Before Lisbon, DG DEV managed EDF programming, whereas DG Relex managed DCI programming (with the exception of South Africa). "Historically, DG Relex has a better track at prioritising conflict and peace issues",<sup>66</sup> whereas DG DEV is regarded as less geared to EU interests.<sup>67</sup> This institutional divide comes to an end with the EEAS and the introduction of single geographic desks at headquarters level.

Besides the differences outlined above, the preparation of CSP/RSP for both EDF and DCI programming followed the following eight steps in the pre-Lisbon set up:

*(1) Preparation of the draft CSP/RSP*

The responsibility for preparing the draft CSP/RSPs falls upon the Head of Delegation (HoD) and is shared with the National Authorising Officer (NAO) for EDF programming. Drafting the CSP/RSP is done in close cooperation with the geographical services

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<sup>65</sup> The Lisbon Treaty opened a legal quarrel between the Council and the European Parliament. At its heart lies a dispute on the nature of the programming documents for development instruments. Currently, Country and Regional Strategy Papers, the strategic assessments of the political and economic situation of a country or region upon which resources are allocated, are considered implementing acts, regulated by the Council of the European Union. The "Council Decision 1999/468/EC of 28 June 1999 on laying down the procedures for the exercise of implementing powers conferred on the Commission", *Official Journal of the European Union*, L 184/23, Brussels, 17 July 1999, grants a *droit de regard* to the European Parliament, and since 2006 the right to issue declarations if it considers the Commission has violated its implementing power mandate, but no veto rights. On the ground of its new powers under Lisbon, specifically Art. 290 and Art. 291 TFEU, whereby decisions on implementing acts or delegated acts should be adopted under the ordinary legislative procedure, the European Parliament claims that Council Decision 1999/468/EC should now be replaced. Although it has not advanced claims over executive functions, the European Parliament maintains that programming documents should be considered as delegated acts which, according to Art. 291, can enter into force only if the European Parliament and the Council express no objections. Considering CSPs/RSPs as delegated acts would give the European Parliament a veto power in the programming cycle.

<sup>66</sup> Gavvas, *op.cit.*, p. 6.

<sup>67</sup> Holden, *op.cit.*, p. 133.

at headquarters.<sup>68</sup> At this stage, consultation with local authorities and non-state actors takes place. Commission DGs other than the one responsible for the instrument as well as AIDCO and the European Investment Bank (EIB) should be involved. Once ready, the draft is sent to the Director of the competent geographical service.

In the post-Lisbon set up, the competence of the HoD remains unchanged, he continues to hold the right of initiative on the first draft of the programming documents, but he does so in close cooperation with the competent geographical desks, which are now going to be part of the EEAS. With Lisbon, the HoDs are under the authority of the High Representative and are therefore likely to play a more political role speaking on behalf of whole of the EU and not just the Commission. In addition, one third of the EEAS will in fact be member-state diplomats likely to be posted as HoDs. At this stage, the involvement of the newly established other DGs and AIDCO constitutes a sort of first pre-emptive "development check".

#### *(2) Preparation of the Programming Appraisal Grid*

The geographical unit prepares a governance performance appraisal grid consisting of two components, the appraisal of the current government performance and the appraisal of the reform commitments for the next programming period.<sup>69</sup> The governance performance appraisal grid can lead to an increased allocation on grounds of political performance. For EDF programming this was the case after the introduction of the already mentioned "governance incentive tranche" with the 10<sup>th</sup> EDF. Governance profiles and commitments are monitored regularly, and countries' allocations can be reviewed annually.

With Lisbon, the EEAS geographical desks, which prepare the governance appraisal grid, could influence the decision to maintain or increase the initial financial allocation by an incentive tranche up to one third, a sensitive leverage vis-à-vis the partner countries and the other DGs. It remains to be seen to which extent this leverage will be used to pursue other objectives of EU foreign policy. Already before Lisbon, access to the incentive tranche depended on the "outcome of a dialogue between the Commission and the partner countries on the past performance and future commitments in the area of governance, *including on*

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<sup>68</sup> European Commission, "10th EDF Programming Orientations: Annexe 2 – The Programming Process", *Inter-quality Support Group*, retrieved 15 March 2010, [http://ec.europa.eu/development/icenter/repository/ACP\\_programming\\_process\\_en.doc](http://ec.europa.eu/development/icenter/repository/ACP_programming_process_en.doc).

<sup>69</sup> *Ibid.*

*migration* [emphasis added]",<sup>70</sup> and the EEAS might speak with a stronger voice in this respect.

### *(3) Country/Region Team Meetings*

The draft CSP/RSP and the governance performance appraisal grid are then discussed in Country/Region Team Meetings (CTM/RTM) organised by the geographical service of the DG involved. An invitation to participate in the CTM/RTM is extended automatically to directors of geographical and thematic units in AIDCO, appropriate directors in other DGs (DG DEV for DCI programming, DG Relex for EDF programming, Trade and ECHO for both if appropriate) and could be extended to directors of other DGs (e.g. Agriculture, Energy, Environment, Fisheries, etc.).<sup>71</sup> In the pre-Lisbon set-up, DG Relex attended CTM/RTMs for ACP countries and vice versa DG DEV attended non-ACP programming meetings. In the Lisbon set-up, with the EEAS and DG DEV sitting at the same table, the CTM/RTM will constitute a "development check" of the programming cycle, in which DG DEV will have an opportunity to verify the adherence of the document to the primary objective of EU development cooperation, poverty eradication, and make the case for ensuring policy coherence for development.

The CTM/RTM can request substantial changes to the draft CSP/RSP, and based on the programming performance appraisal grid, the CTM/RTM deliberates on the allocation of additional resources. For EDF funds, the governance incentive tranche can increase the initial indicative allocation by a maximum of one third.<sup>72</sup> But the CTM/RTM's main task is to ensure coherence of Community actions. At this stage, the CSP is enriched with contributions of all parties involved and becomes more of a compromise document.<sup>73</sup> In this case, the simple presence of the EEAS in CTM/RTMs could offer an opportunity to ensure not only coherence, but also consistency of the EU's external actions as a whole, including the domain of CFSP. In addition, a special unit in the EEAS will be in charge of ensuring consistency across policies.

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<sup>70</sup> European Commission, *Governance and the European Consensus on Development*, COM(2006) 735 final, Brussels, 30 November 2006.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> Interview with an official, DG Development, European Commission, Brussels, 8 April 2010.

#### (4) Inter-Quality Support Group

After the directives of the CTM/RTM are sent to the HoD, and the HoD, if requested, submitted the revised CSP/RSP to the geographical desk,<sup>74</sup> the document is sent to the Inter-Quality Support Group (iQSG). "The iQSG consists of a permanent secretariat (three people) and a group of experts 'borrowed' from various DGs"<sup>75</sup> with the task of ensuring "consistency and the quality of programming document on the basis of the common framework for CSP/RSP adopted in 2000".<sup>76</sup> Holden found that in the 2001 round of CSP/RSP programming, the iQSG was perceived as too developmentally oriented.<sup>77</sup> Recent interviews with Commission officials revealed that the iQSG's role is largely cosmetic, as opposed to the CTM/RTM which can require substantial changes to the draft CSP.<sup>78</sup> In theory, however, the iQSG screening could constitute another "development check".

#### (5) NIP/RIPs

Following the CTM/RTMs and iQSG assessments, the geographical service, in collaboration with the HoD and AIDCO, prepares a condensed form of the National Indicative Programme,<sup>79</sup> which allocates resources to each of the focal and non-focal sectors of the CSP/RSP. The involvement of AIDCO represents here a safeguard against an instrumental allocation of development resources. As Simon Maxwell pointed out during a meeting of the Parliament's Development Committee in March 2010, it remains key for the Commissioner for Development to retain a sort of control over AIDCO in the new set-up.<sup>80</sup> The European Think Tank Group envisaged even that AIDCO and DG DEV should be brought together under one single Directorate-General.<sup>81</sup>

#### (6) Commissioner's validation

In the current procedure, the Commissioner validates the proposal before this is transmitted a second time to the iQSG, the delegation and the NAO for a final

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<sup>74</sup> *Ibid.*

<sup>75</sup> Holden, *op.cit.*, p. 40.

<sup>76</sup> European Commission, *10<sup>th</sup> EDF Programming Orientations*, *op.cit.*

<sup>77</sup> Holden, *op.cit.*, p. 41.

<sup>78</sup> Interview with an official, DG Development, European Commission, Brussels, 8 April 2010.

<sup>79</sup> European Commission, *10<sup>th</sup> EDF Programming Orientations*, *op.cit.*

<sup>80</sup> Simon Maxwell, Director of Overseas Development Institute, "New Challenges, New Beginnings: Next Steps in European Development Cooperation", Report by the European Think-Tanks Group, European Parliament Committee on Development, 16 March 2010.

<sup>81</sup> European Think-Tanks Group, *op.cit.*

comment. Once the draft is finalised and the NAO has made his comment, the geographical service launches an Inter-Service Consultation. The Council Decision on the EEAS establishes that with regard to EDF and DCI, any proposal on programming document should be jointly submitted for decision to the College of Commissioners by the Commissioner for Development and the High Representative. The authority of the Commissioner to sign off on the proposal creates here a so-called “joint key”,<sup>82</sup> which places a further “development check” on all programming documents.

#### *(7) Inter-Service Consultation*

The final CSP and the NAO comments are then forwarded to AIDCO, the European Commission Humanitarian Office (ECHO), DG Relex (if EDF), DG DEV (if DCI), DG TRADE and the Legal Service, which are invited to give their opinion on the documents.<sup>83</sup> At the same time, the iQSG assesses the follow-up of its original recommendations, and the iQSG opinion and ISC opinions are submitted by the same deadline.<sup>84</sup> The Inter-Service Consultation presents a further opportunity to ensure that the programming documents are coherent with the objective of poverty eradication.

#### *(8) EDF Committee, DCI Committee, the European Parliament and approval*

After the ISC and iQSG validations, the CSP/RSP is sent to the committees where the member states are represented. The EDF Committee is composed of representatives of the member states in Brussels, it deliberates without consulting the European Parliament. The DCI Committee is composed of representatives of the member states and is chaired by a representative of the Commission.<sup>85</sup> For DCI, the European Parliament is informed of the Committee proceedings on a regular basis<sup>86</sup> and the Parliament’s Committee on Development, organised into five working groups meeting on average every fortnight, screens and analyses the draft CSR/RSPs and the Annual Action Programmes (AAPs). For their democratic scrutiny work, these working groups engage in a structured dialogue with the Commission and, if

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<sup>82</sup> Gavvas, *op.cit.*, p. 9.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> Council of the European Union, *Decision 1999/468/EC of 28 June 1999 on laying down the procedures for the exercise of implementing powers conferred on the Commission, op.cit.*, Art. 4 and Art. 4.

<sup>86</sup> *Ibid.*, Art. 7.



necessary, contact embassies and civil society; their scrutiny results in a set of suggestions and recommendations to the Commission, and - in cases when they estimate that the Commission has exceeded its implementing powers - in a parliamentary resolution requesting the Commission to withdraw or modify its draft decision. Guido Van Hecken, Senior Administrator at the Development Committee's secretariat, pointed out that only a quarter of Parliament's requests for withdrawal or modification of a draft measure (3 out of 12) were taken into account during the past legislature (2004-2009).<sup>87</sup>

The CSP/RSPs are finally adopted by written procedure by the Commission. The geographical desk prepares a notification letter from the Commissioner to the Head of State. The letter indicates who signs the CSP on behalf of the Commission. The signature marks the formal adoption of the CSP/RSP.

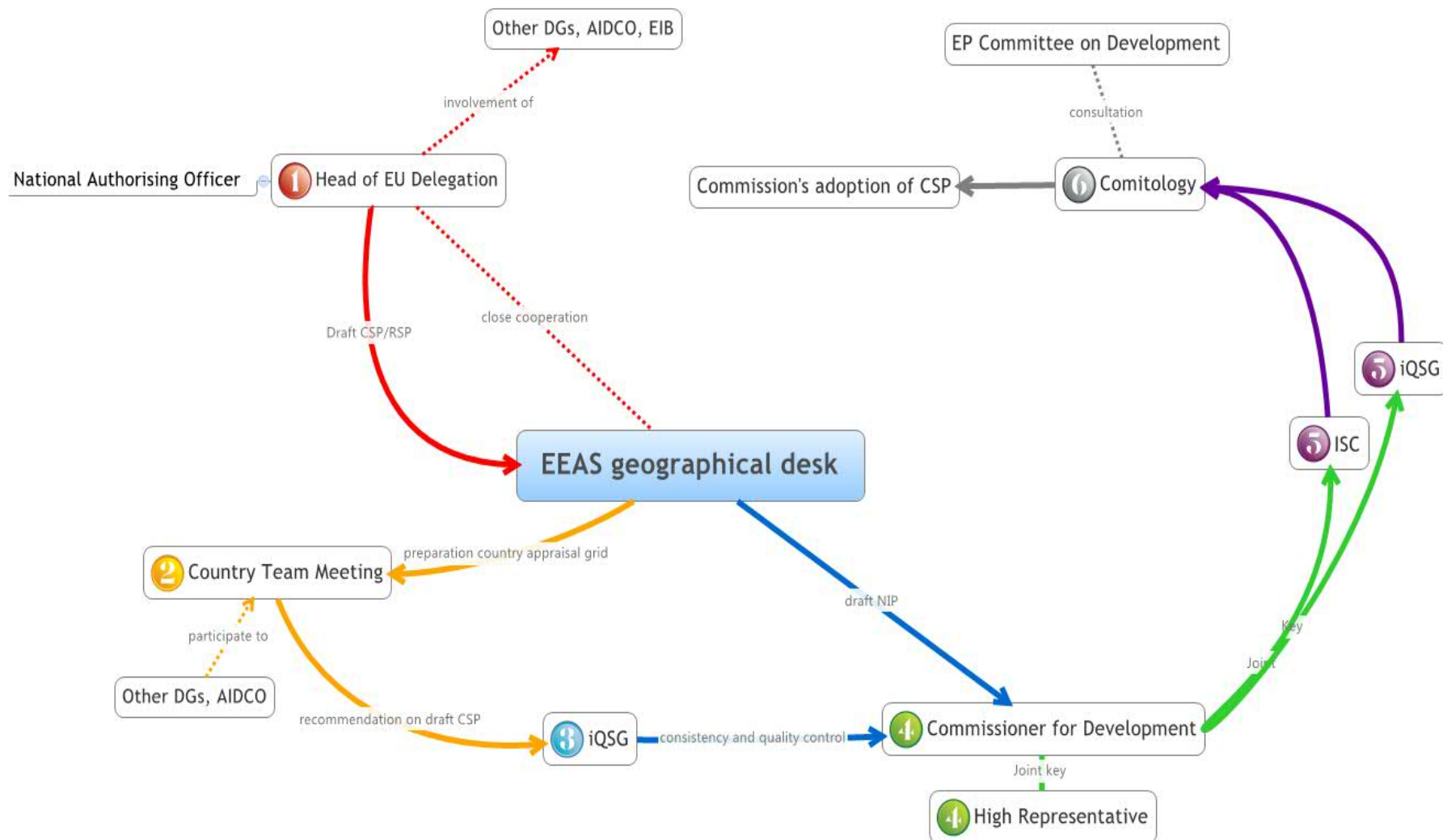
Figure 2, based on the 2007 cycle of programming, represents the decision-making process for CSP/RSP in the Lisbon set-up and help us identify the "development checks" scattered along the process:

- the participation of AIDCO and possibly other DGs in the first drafting of Country and Regional Strategy Papers;
- the participation of DG DEV and other relevant DGs in CTM/RTMs with the opportunity to extend Policy Coherence for Development to the whole of the EU's external action, including the CFSP;
- the "joint key", with the Commissioner for Development having the last say in programming, especially for draft NIP/RIPs;
- the Intra-Service Consultation;
- the scrutiny of the European Parliament's Committee on Development.

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<sup>87</sup> Guido Van Hecken, Secretariat of the European Parliament Committee on Development, "The role of the European Parliament in Development", lecture, Bruges, 9 April 2010.

Figure 2: Decision-making Process for CSP/RSP



Source: author's compilation

## **5. Post-Lisbon scenarios for EU development cooperation**

In order to help the objective of poverty eradication it is vital that development priorities are reflected in the instruments' regulation. With a clear focus on poverty eradication and the MDGs, as well as standard and objective criteria for resource allocation between countries, aid regulations can set the boundaries for programming and prevent the diversion of development resources. Aid regulations can also provide watchdogs, like the Parliament's Committee on Development, with a powerful tool to scrutinise the programming documents.

If the provisions of the Council Decision on the EEAS are interpreted in an expansive way, we can expect the EEAS to play a dominant role in preparing proposals for the successor instrument to the DCI, as well as in the conduct of negotiations for the 2015 Cotonou review. It remains to be seen, especially depending on institutional capacity, to which extent the guidance of the Commissioner for Development will be an effective "development check" in the process. In any case, the EEAS might end up exercising control over the following levers of the aid regulations:

- objectives;
- percentage of ODA-eligible aid;
- proportion between geographic and thematic programmes;
- allocations between regions;
- criteria for country allocation.

The EEAS will also play a central role in the programming cycle through the creation of single geographical desks in Brussels, and at delegation level with the Head of Delegation, who receives instructions primarily from the High Representative, holding the right of initiative for the CSR/RSPs.

In the next section we will present two alternative scenarios, one in which the EEAS emerges as the dominant player in the development policy process, and another in which an effective dual management is put in place, thanks to the enforcement of checks and balances.

### 5.1 Scenario one: a dominant EEAS

By exerting control over the HoDs through its single geographical desks, the EEAS could emerge as the dominant player in the programming cycle to the detriment of a weaker and split DG DEV. In extreme but possible cases, the HoDs drafting the development programming documents would be member-state diplomats posted to the EEAS.<sup>88</sup> DG DEV would be relegated to a secondary role within the CTM/RTMs too. This way, the Development Commissioner 'joint key' would become little more than a bureaucratic practice.

In such a scenario, programming would be severely affected by the lack of mechanisms to preserve development expertise within an EEAS characterised by a short-term focus on crisis-management and security policy. Development experts integrated into the EEAS would therefore end up being marginalised even at delegation level.<sup>89</sup> With a weak development control over programming, resources destined to eradicate poverty would be used, for example, to foster legislation to control illegal migration, to fight terrorism, drug-trafficking or to promote the EU's visibility across the world.

This new equilibrium would be reflected in the new aid regulations prepared within the EEAS, with greater flexibility, broader objectives and less tight criteria for resource allocation between countries, resulting in a smaller allocation to LDCs to the benefit of geopolitically sensitive countries and the neighbourhood. The new regulations might be more sensitive to crisis contexts and give greater emphasis to political performance. More resources would be allocated to thematic programmes and the intra-ACP envelope, and the proportion of aid bound to be ODA-eligible would therefore be reduced.

This tendency could generate momentum for a rationalisation and consolidation of existing instruments in the 2014-2021 Financial Perspective. Even more alarmingly, the imbalance of power in programming would severely affect the stance of the Development Commissioner within the College of Commissioners, where he could become subordinated to a predominant High Representative/Vice President "promoting security-driven or influence-asserting politics".<sup>90</sup>

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<sup>88</sup> Honor Mahony, "Member states agree diplomatic service", *EUobserver*, 27 April 2010.

<sup>89</sup> E. Koeb, "A More Political EU external Action: Implications of the Treaty of Lisbon for the EU's relations with developing countries", Maastricht, *European Centre for Development Policy Management*, InBrief, no. 21, June 2008, p. 11.

<sup>90</sup> *Ibid.*, p. 9.

Simon Maxwell had ironically remarked that with the EEAS's influence over programming, an independent implementing agency, and a separate Commissioner for Humanitarian Aid, the Development Commissioner would have become as influential as a "director of a think-tank".<sup>91</sup> In the longer run, such a scenario would lead to the subordination of the objectives of development cooperation and the instrumentalisation of development funds in the name of greater consistency, and a weakening of the EU's commitment to poverty eradication exacerbated at the international level by the likely failure to achieve the MDGs and widespread aid fatigue among donors.

The provisions of the Lisbon Treaty and the Council Decision on the establishment of the EEAS, combined with a number of internal and external factors, could theoretically lead to such a scenario. Our argument, however, is that there is a number of safeguards which could prevent this scenario from coming into place, or mitigate its detrimental effects on the objective of poverty eradication.

## 5.2 *Scenario two: checks and balances*

The first safeguard of development policy's objectives is the Lisbon Treaty itself. The primacy of the objective of poverty eradication is enshrined in EU primary law as well as the provision on policy coherence for development, unique among international donors. The Council Decision of 26 July 2010 clarifies, as opposed to the earlier proposal of 25 March 2010, that "the EEAS should seek to ensure that the programmes fulfil the objectives [...] of the Union's development policy and [...] the European Consensus on Development".<sup>92</sup>

To counter the dominant role of the EEAS, the Council Decision establishing the EEAS provides also for a dual management of programming. "Throughout the whole cycle of programming, planning and implementation, [...] the High Representative and the EEAS shall work with the relevant members and services of the Commission".<sup>93</sup> "[W]ith regard to the European Development Fund and the Development Cooperation Instrument, any proposals, including those for changes in the basic regulations and the programming documents [...], shall be prepared jointly

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<sup>91</sup> Simon Maxwell, Director of Overseas Development Institute, "New Challenges, New Beginnings: Next Steps in European Development Cooperation", Report by the European Think-Tanks Group, European Parliament Committee on Development, 16 March 2010.

<sup>92</sup> Council of the European Union, "Council Decision 2010/427/EU of 26 July 2010 Establishing the Organisation and Functioning of the European External Action Service", *op.cit.*, Art. 1(4).

<sup>93</sup> *Ibid.*, Art. 9(3).

by the relevant services in the EEAS and in the Commission under the responsibility of the Commissioner responsible for Development Policy and shall be submitted jointly with the High Representative for adoption by the Commission".<sup>94</sup>

The dual management is guaranteed by the existence of development "checks and balances" scattered along the programming cycle which act as balancing forces against a dominant EEAS:

- the participation of AIDCO and possibly other DGs in the first drafting of Country and Regional Strategy Papers;
- the participation of DG DEV and other relevant DGs in CTM/RTMs with the opportunity to extend Policy Coherence for Development to the whole of the EU's external action, including the CFSP;
- the "joint key", with the Commissioner for Development having the last say in programming, especially for draft NIP/RIPs;
- the Intra-Service Consultation which could be made more effective in promoting the coherence of all policies with development objectives;<sup>95</sup>
- the scrutiny of the European Parliament's Committee on Development.

For these checks and balances to be effective, however, it is crucial that development cooperation will be well represented in the policy formulation and that it will have the space and autonomy to develop its specialists at country level and in Brussels<sup>96</sup> within the EEAS itself. With the transfer of former DG DEV services into the EEAS it is likely that the new diplomatic service will internalise the two cultures of the EU's external relations, a communitarian culture inherited from the Commission services and a political culture inherited from the Council and crisis management structures.<sup>97</sup> In this respect, it is vital that the developmental culture will find its autonomous space within the EEAS. This could be achieved through "separate career paths for technical development advisors in the EEAS and relevant Commission services".<sup>98</sup>

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<sup>94</sup> *Ibid.*, Art. 9(4).

<sup>95</sup> European Think Tanks Group, "Development-proofing the European External Action Service", Policy Brief, June 2010.

<sup>96</sup> Mackie et al., *op.cit.*, p. 11.

<sup>97</sup> Gavass, Mikaela and Maxwell, Simon, "Indicators of a Successful EEAS", Submission to Inquiry into the European External Action Service by Sub-Committee C of the House of Lords, July 2010. Available at <http://internationaldevelopmenteu.files.wordpress.com/2010/07/odi-written-evidence-on-eeas-house-of-lords-eu-sub-com-c-july2010.pdf>

<sup>98</sup> European Think Tanks Group, "Development-proofing the European External Action Service", *op.cit.*

It is also vital that the Commissioner for Development will have effective instruments under his supervision and guidance for the services in the EEAS which will be involved in the programming cycle, either by establishing a direct line of reporting from the EEAS geographical desks dealing with developing countries or in a hypothetical development department within the EEAS. The latter is an option which would be in line with the letter of the Council Decision on the EEAS.

With regard to the Commission services responsible for programming, the establishment of the EEAS has paved the way for the merging of AIDCO and the leftovers of DG DEV into a newly established EuropeAid Development Cooperation Office (DEVCO), a decision announced on 27 October 2010.<sup>99</sup> Within this new Directorate-General, we can assume that the leftover services of DG DEV would remain responsible for thematic programming, under the guidance of the Commissioner for Development, as provided for by the Council Decision on the establishment of the EEAS.<sup>100</sup> This will ensure a poverty focus in thematic programmes which now seem to be the most vulnerable to “instrumentalisation”. At the same time, deprived of its geographical services, and the burden of political dialogue which is taken over by the EEAS, the leftover services of DG DEV will become more focused and specialised in cross-cutting and thematic issues. This would enhance the newly established DEVCO’s institutional capacity and transform it into a sort of watchdog in support for PCD, especially within the CTM/RTMs. DEVCO would thus also be influential in the preparation of the successor to the DCI, and in the negotiations of the 2015 Cotonou review. The draft decision on the EEAS does not in fact rule out the possibility that proposals on aid regulations are prepared by Commission services, and not just the EEAS.<sup>101</sup>

With regard to AIDCO, after Lisbon, the implementing agency started to report to the Commissioner for Development instead of the no longer existing Commissioner for External Relations. This paved the way for the merging of AIDCO and DG DEV into a newly established DEVCO. With such an institutional capacity behind him, the Commissioner for Development would develop a visible and autonomous role within the College of Commissioners and be able to make an effective use of the joint key when signing off the programming documents.

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<sup>99</sup> Taylor, Simon and Vogel, Toby, “EEAS Appointments Trigger Mini-Reshuffle”, *European Voice*, 28 October 2010.

<sup>100</sup> Council of the European Union, “Council Decision 2010/427/EU of 26 July 2010 Establishing the Organisation and Functioning of the European External Action Service”, *op.cit.*, Art. 9(4).

<sup>101</sup> *Ibid.*

The Development Commissioner and the services under his authority could also exploit the 'window of opportunity' offered by the institutional reform process to embrace the full breath of developing countries, putting an end to the divide between ACP and non-ACP developing countries - what Eva Joly, Chairwoman of the Parliament's Committee on Development, has defined as archaic and colonial,<sup>102</sup> and Mirjam Van Reisen as a systematic violation of the policy definition of developing cooperation.<sup>103</sup>

Another "development check" will come into being if the European Parliament wins the battle over the nature of the programming documents and secures a veto power over CSP/RSPs. In addition, if the EDF is budgetised, this will mean full parliamentary oversight over programming documents for both DCI and EDF. The Parliament's Committee on Development would thus hold the fifth "development check" over the programming cycle.

### 5.3 Policy recommendations

As the second scenario shows, not only does the Lisbon Treaty offer the chance of helping the objective of poverty reduction, but also that "of capitalising on the entire breath of external action for the benefit of development".<sup>104</sup> The scenarios have also shown that for this opportunity to be seized, it is vital that development cooperation is well represented in policy formulation and that it has the space and autonomy to develop its specialists within and without the EEAS.<sup>105</sup> In other words, it is key to develop an institutional capacity that maintains the system of checks and balances of the programming cycle alive, and by consequence, ensures that aid regulations reflect a clear focus on poverty eradication. We offer here two sets of policy recommendations for the institutional architecture to seize these chances provided by the Lisbon Treaty.

#### (1) Organisation models

Advocates of development policy's independence usually take as a model those member states with an independent development minister and an independent development office responsible for the whole programming cycle (UK, Germany,

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<sup>102</sup> Interview with Eva Joly, Chairwoman of the European Parliament Committee on Development, Brussels, 4 May 2010.

<sup>103</sup> Van Reisen, *Window of Opportunity*, *op.cit.*, p. 256.

<sup>104</sup> Koeb, *op.cit.*, p. 13.

<sup>105</sup> Mackie et al., *op.cit.*, p. 11.



Sweden).<sup>106</sup> With Lisbon, a similar model built around a strong DG DEV is defunct and replaced by a “dual-management” system. In a dual-management system, the two main actors will be the EEAS and the Commission services.

Within the Commission services, the merger of AIDCO and DG DEV into a new DEVCO is likely to lead to a heavier counterpart to the EEAS. However, we recommend to take advantage of the institutional engineering process triggered by the entry into force of the Lisbon Treaty in order to ensure that development priorities are well represented within the EEAS itself. This can be achieved in two ways:

- either with the creation of a development department within the EEAS, under the authority of the Commissioner for Development and financially accountable to the European Parliament; or
- with the establishment of a management structure in which the Commissioner for Development has under his supervision and direct guidance the development practitioners within several EEAS geographical desks or the whole of the EEAS geographical desks dealing with developing countries, ACP or non-ACP.

## *(2) Division of labour*

The greatest ‘added value’ of the new set-up and its dual-management structure is the opportunity to end the rigid institutional divide of the pre-Lisbon architecture and replace it with a flexible and dynamic division of labour which combines the complementary added values of the Commission and the Council. We recommend that the Commissioner for Development, and the services under his authority, should take the lead in programming of aid for developing countries and LDCs, both ACP and non-ACP. The High Representative and the services under her authority should instead take the lead in the following scenarios:

- *fragile states* where the EU is engaged in crisis management. In places where a conflict or crisis undermines the authority of the local government, the Cotonou Agreement allows the Commission to manage the resources itself for special support, including peace-building policies, conflict management and resolution and post-conflict support.<sup>107</sup> This responsibility could be assumed by the EEAS and the High Representative. It would be best suited to ensure more conflict sensitivity

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<sup>106</sup> Koeb, *op.cit.*, p. 9.

<sup>107</sup> European Community and ACP Group of States, Agreement Amending the EC-ACP Partnership Agreement signed in Cotonou on 23 June 2000, *op.cit.*, Annex IV, Art. 4.

and a so-called 'whole-of-government' approach and at the same time avoid wasteful duplication;

- *emerging countries*, which are uncomfortable with the label of 'developing country' and where the EU has larger political interests at stake. In a letter to Catherine Ashton, former British Foreign Secretary David Milliband advised the Baroness to upgrade the EU's presence in emerging powers like China, India, Indonesia, Brazil, and Pakistan.<sup>108</sup> In these countries, the standard and objectives resource allocation criteria or DAC-eligibility minimums might prove to be too constraining, as the example of Brazil shows. In the CSP for Latin America for 2008-2013 for instance, the Commission attributed the fact that only 70% of aid was DAC-eligible to Brazil claiming the status of an emerging, rather than a developing country.<sup>109</sup>

The reforms introduced by the Lisbon Treaty and the establishment of the EEAS have inaugurated an *interregnum*, likely to protract at least until 2013, during which the process of institutional engineering will proceed by trial and error, and finally settle down. In the short-run, it is likely that the leftovers of DG DEV and AIDCO, merged into the newly established DEVCO, and will be the main institutional pivot for the development checks and balances, while in the longer-run this responsibility will progressively and consciously be assumed by services within the EEAS.

## 6. Conclusions: defending the goal of poverty eradication

This paper has investigated whether the fears of many representatives of the development community that the emergence of the EEAS will undermine the poverty focus of EU development cooperation are justified. To what extent are the reforms brought about by the Lisbon Treaty likely to help or hinder the achievement of the primary objective of the EU's development cooperation?

With the loss of development policy's independent status, it is likely that the objective of poverty eradication, despite the primacy the Treaty accords to it, will have to be defended more forcefully than before. The poverty focus of EU

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<sup>108</sup> A. Rettman, "EU Diplomats Should Target India and China, Ministers Say", *EUObserver*, 4 March 2010, retrieved 5 March 2010, <http://euobserver.com/9/29610>.

<sup>109</sup> European Parliament Committee on Development, *Report of the European Parliament Committee on Development on the Assessment of draft Country and Regional Strategy Papers/Indicative Programmes for Brazil*, retrieved 25 April 2010, <http://www.la-programming.eu/wcm/dmdocuments/DEVE%20conclusions%20Brazil.pdf>

development cooperation might be challenged by a competition for resources in the 2014-2011 Financial Perspective and, with the creation of single geographical desks, by the emergence of a dominant EEAS in the programming cycle and preparation of aid regulations. With the Lisbon Treaty, the institutional means to transform development cooperation into a component of the EU's wider foreign-policy toolbox become available.

However, as we have shown, the loss of development policy's independent status does not necessarily have to lead to a weakening of the EU's commitment to poverty eradication, provided certain safeguards are in place. To this end, it is key to develop an institutional capacity that maintains the system of checks and balances of the programming cycle alive and, by consequence, ensures that aid regulations reflect a clear focus on poverty eradication. In the short run, it is likely that the leftovers of DG DEV and AIDCO, merged into a new DEVCO, will remain the main institutional pivot for the development checks and balances, while in the longer run, this responsibility will be progressively and consciously assumed by services within the EEAS. In this respect, the paper recommends the creation of a development department within the EEAS which is directly responsible towards the Commissioner for Development and financially accountable to the European Parliament, or alternatively an organisational structure in which the Commissioner for Development has under his supervision and direct guidance development practitioners within several EEAS geographical desks, or the whole of the EEAS geographical desks dealing with the full breath of developing countries.

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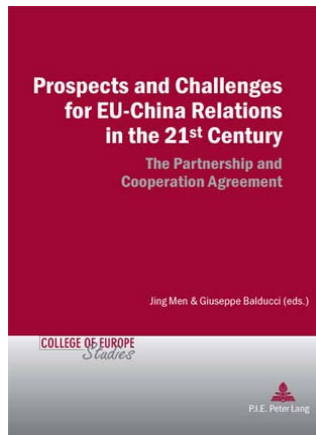
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