POLICY COHERENCE FOR DEVELOPMENT MANUAL:

FROM POLICY INCOHERENCE TO FAIR POLITICS

FICHA TÉCNICA

Enhancing Policy Coherence: Making Development Work Better aims to contribute to poverty reduction by enhancing policy coherence for development (PCD) through awareness raising among different stakeholders.

Project Partners:
Instituto Marquês de Valle Flôr (IMVF)
Evert Vermeer Foundation for International Solidarity (EVF)
Glopolis, Prague Global Policy Institute
Eesti People to People (People to People Estonia)
Cape Verdian Platform of NGOs

This publication was produced in the framework of the project Enhancing Policy Coherence: Making Development Work Better is a project co-financed by the European Union. The views expressed in the website and publications do not necessarily reflect the opinion of the European Comission

Editors: Instituto Marquês de Valle Flôr

Authors: EVF: Fair Taxes [January 2011] :: Raw Materials Initiative [March 2011] :: Economic Partnership Agreements [November 2010] :: Fisheries Partnership Agreements [June 2010] :: Trips & Access to Medicines [March 2010]

Glopolis: In the pursuit of a more coherent CAP for development? Mind your step! [March 2011]

PTP: Biofuel and Fair Energy [March 2011] :: Climate Change [February 2011]

IMVF: The Impact of Biofuels in Development Policies [September 2011]

Design: Diogo Lencastre

Many thanks to all partners and experts who have kindly commented on the draft texts of this publication

March 2012

ACRONYMS

ACP	Africa, Caribbean and Pacific
ACTA	Anti-Counterfeiting Trade Agreement
CAFE	Corporate Average Fuel Economy
CAN	Andean Community of Nations
CAP	Common Agricultural Policy
CCS	Carbon Capture and Storage
CFP	Common Fisheries Policy
CFSP	Common Foreign and Security Policy
CONCORD	European NGO Confederation for Relief and Development
CSO	Civil Society Organisation
CSP	Country Strategy Papers
DAC	Development Assistance Committee (OECD)
DG	Directorate-General
EBA	Everything But Arms
EC	European Commission
ECCP	European Climate Change Program
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EEAS	European External Action Service
EEPR	European Energy Programme for Recovery
EEZ	Exclusive Economic Zone
EIB	European Investment Bank
EITI	Extractives Industries Transparency Initiative
EP	European Parliament
EPA	Economic Partnership Agreement
ESD	European Savings Directive
ETS	Emissions Trading Scheme
EU	European Union
FAO	Food and Agriculture Organisation
FDI	Foreign Direct Investment
FLEGT	Forest Law Enforcement Governance and Trade
FPA	Fisheries Partnership Agreement
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GHG	Greenhouse Gas

GSPA	Global Strategy & Plan of Action on Public Health, Innovation and Intellectual Property
GSP	Generalised System of Preferences
IEEP	Institute for European Environmental Policy
IFCN	International Farm Comparison Network
IMF	International Monetary Fund
IP	Intellectual Property
IPCC	Intergovernmental Panel on Climate Change
IPR	Intellectual Property Rights
IPRED	Intellectual Property Rights Enforcement Directive
ISTEA	Intermodal Surface Transportation Efficiency Act
IUU	Illegal, Unreported and Unregulated (fishing)
JRC	Joint Research Centre
LDC	Least Developed Country
MDG	Millennium Development Goal
MEP	Member of the European Parliament
MFN	Most Favoured Nation
MNC	Multinational Corporation
NGO	Non-Governmental Organisation
OCT	Overseas Countries and Territories
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
PCD	Policy Coherence for Development
RED	Renewable Energy Directive
RMI	Raw Materials Initiative
SPC	Supplementary Protection Certificates
TEA	Transportation Equity Act
TFEU	Treaty on the Functioning of the European Union
TRIP	Trade Related Aspects of Intellectual Property
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNFCCC	United Nations Framework Convention on Climate Change
US	United States
VPA	Voluntary Partnership Agreement
WHO	World Health Organisation
WTO	World Trade Organisation

TABLE OF CONTENTS

PREFACE

"Distinguished Guests, Ladies and Gentlemen,

Today we open a new chapter in EU development policy. I use the words "new chapter" because my message to you today is about drawing on past achievements and making changes to build a better future for all. The Agenda for Change introduces a raft of important changes to how we do development policy, while at the same time building on the good things that have come out of our development policy, and the European Consensus on Development in particular. (…) It is a solid blueprint to take us forward. Forward into a future in which we make a bigger and faster difference than ever before to the lives of people in developing countries; forward into a future in which those people have the opportunity to pull themselves out of poverty; forward into a future in which every euro we spend delivers at least a euro of results on the ground and more opportunities.

WHY AID WORKS

Before I go on, let's take stock. I realise I am somewhat preaching to the converted here; but it sometimes does us good to remind ourselves why we do what we do – i.e. that aid really does work.

Now I know there are plenty of aid sceptics out there who would rather see money spent elsewhere. But I think theirs is a very short-sighted approach. To them I would ask this: What about the 85 000 female students, most in sub-Saharan Africa, who have been able to enrol in secondary education thanks to Commission support? What about the 5 million children who won't have to suffer the consequences of measles, because we've helped get them vaccinated? What about the 31 million households now connected to drinking water?

I have learnt that the aid we have given over past decades or so has made a real difference to real people. Whether in a hospital in Djibouti or South Sudan, at a wind farm in Vanuatu or at a veterinary laboratory in Afghanistan, I have seen aid at work with my own eyes.

MEETING THE CHALLENGES AHEAD

Every one of you knows that we still face huge development challenges. The green shoots of change are there. But we cannot leave them untended. We need to do more, and nurture them.

My pride in what we in Europe have achieved in development is tempered only by a sense of frustration that there is much more for us to do. More to get the world's poorest countries out of the cycle of poverty and onto the ladder of prosperity. More to prevent people dying needlessly and from being born into a life without opportunity. More to deliver better aid and get better, sustainable results.

We have a duty to European taxpayers and to people in developing countries to get the most from our resources. Not only is that good development policy, it makes good financial sense as well. And tackling the root causes of poverty and insecurity to give developing countries and their people the opportunities they deserve will open up opportunities for us too. A developing world freed from the shackles of poverty and insecurity and given the chance to grow will make for more prosperity and security all over the world. Put simply, investment in the developing world's future is investment in our own future as well. As the vice-president of the World Bank Ms Obiageli Ezekwesili recently said, the world economic recovery will need the economic growth that Africa is enjoying and can continue to enjoy. In short, the World needs Africa.

Be in no doubt: we can rise to these challenges. And we will. We have proposed a budget framework for the coming years that will enable the EU to pursue its leading role on the world's development stage. Through Member States' efforts we must meet our 0.7% ODA target. Our task is to channel the resources available to us strategically, where they are needed most and can make the most difference.

THREE KEY AREAS

The time is right for us to step up a gear and move into the fast lane. We've been doing well so far, but the capacity for us to build on our successes and do better going forward is there. (...) We must also understand that the context in which we plan and act has shifted. For instance, a number of former developing countries have caught up with developed countries and even become aid donors in their own right. The Arab Spring has highlighted the thirst for democracy and for a brighter future. Yet we continue to wrestle with a worldwide financial crisis that has left the most vulnerable economies even more exposed and put a strain on our own finances.

Against this backdrop, to rise to the challenge of spending our resources wisely and well we must set our sights very high. Being the biggest player is all well and good, but I want us to be the best as well. And being the best means getting the work done efficiently and with lasting results. (...) Let me take you through three of the areas in which we hope to make this happen.

1. GOVERNANCE

I'll start with governance. Good governance is key to a country's basic development and poverty reduction efforts. Reducing poverty for good requires robust and honest state institutions that are both able and willing to help poor people improve their standards of living and to provide them with public services, rights and security. Likewise, democratic processes make the state accountable to its citizens, encourage transparency and guard against corruption. Basically, they allow for constructive relations between government and people.

So our development support should also be a spur to democratic governance and respect for human rights. It needs to offer incentives to democratic reform processes and at the same time actively support developing countries in making positive change for the better.

Think of development policy and governance as two sides of the same coin. On the one side, development policy and action can help bring about positive improvements in governance. On the flipside, improvements in governance can play an often critical role in reducing poverty. Included in this is the crucial role of parliaments, civil society and NGOs in holding governments to account for their actions even at local level. It is a role that needs strengthening and that we will support. (...)

2. INCLUSIVE AND SUSTAINABLE GROWTH

So governance is key to basic development. Equally, however, countries won't pull themselves out of poverty unless they can find a way to grow. (...) Growth is first and foremost about the human beings who actually create it. We must do more to further human development. We must ensure that people are healthy, educated and able to find decent jobs. And we must help countries set up their own social protection schemes. We will continue to focus, as a minimum, 20% of EU funding on health and education, and in particular we will improve and increase our focus on women, transforming the Gender Action Plan into a living tool, and leading by example.

Clearly, in seeking growth our watchwords must be sustainability and inclusiveness. Growth that cannot last and only benefits a few in society will be of no use in spurring on development and poverty reduction. (...)

Some sectors in particular must be at the forefront of our push for growth. Sustainable and inclusive Agriculture and Energy feature highly in our Agenda for Change, and with good reason. No country has ever pulled itself out of poverty without first being able to feed its population. During my recent visit to the Horn of Africa, I witnessed at first hand the devastating consequences of hunger and malnutrition in a small children's hospital in Djibouti. Hunger and malnutrition kill. It's that simple. We must do all we can to enable countries to feed themselves.

Likewise, no country has ever pulled itself out of poverty without first being able to secure its energy supply. The recent initiative of the UN Secretary-General, the High-Level Panel on Energy 4 All, on which I am proud to serve, has the aim of ensuring basic energy services for every global citizen by 2030.

It is perfectly possible to achieve this, with the necessary political determination. I for one am determined that it will succeed.

Through robust support for agriculture and energy in our partner countries, we can help shield them from shocks such as scarcity of resources and supply or price volatility.

The road out of poverty also involves creating a favourable business environment for the local private sector. We should explore new ways in which we can collaborate with the private sector to deliver sustainable and inclusive growth. One such area is grant/loan blending, which has unlocked more than 20 billion euro in project financing for EU development policy since 2007. Blending mechanisms help beneficiaries achieve easier and faster access to financing with appropriate conditions. We should further explore leveraging options for our grant resources.

3. DELIVERY AND RESULTS ON GROUND

Reducing poverty and achieving the MDGs will only happen if we do everything we can to maximise results.

We have a number of avenues to explore to make our results count. Blending is one. Another is better aid coordination with others, especially EU Member States, along with improved policy coherence for development. We already co-finance programmes and projects and work through delegated cooperation. In future we also intend to step up joint programming of our aid to make it at once more coherent, more effective and more visible. Simpler programming and better EU coordination can make for better planned, more transparent and more predictable aid flows – the right recipe for more and better results (...).

Results matter. That's a fact. We agree that donors must do more to demonstrate the results of development cooperation. With a common results framework the EU and its Member States would be speaking with one voice to explain what development cooperation is about and what results have been achieved. We would be making our results more visible, boosting aid transparency and improving the coordination process. And we would be making ourselves more accountable (...).

Armed with a more strategic, up-to-date development policy and a new approach to budget support we can now set about doing more, doing better and replicating success".

Andris Piebalgs, European Commissioner for Development

Excerpts from the speech:

The future of development policy and budget support ,"Launching the Agenda for Change. Increasing the impact of EU development policy and the future approach to budget support" Conference in Brussels, 19 October 2011

PART I:
CONCEPTS, BACKGROUND AND COMMITMENTS

What is Policy Coherence for Development (PCD)?

"Policy Coherence for Development means working to ensure that the objectives and results of a government's development policies are not undermined by other policies of that same government which impact on developing countries, and that these other policies support development objectives where feasible".

Organisation for Economic Cooperation and Development (OECD)

"The EU seeks to build synergies between policies other than development cooperation that have a strong impact on developing countries, for the benefit of overseas development ("policy coherence for development"). Making development policy in isolation will not bring sufficient results".

DG Development, European Commission

"The EU has always been one of the key promoters worldwide of the concept of Policy Coherence for Development (PCD) aimed at strengthening synergies and weeding out inconsistencies between non-aid policies and development objectives. The main incentive has been the knowledge that limiting policy incoherence and strengthening synergies among EU external and internal policies will enhance the overall efficiency of development cooperation and will also lead to increased development benefits in developing countries. "

EU 2011 Report on Policy Coherence for Development

PCD IN THE EUROPEAN UNION

In the Millennium Declaration adopted by the United Nations (UN) General Assembly on 18 September 2000, developed and developing countries have affirmed that "*We resolve to create an environment – at the national and global levels alike – which is conducive to development and to the elimination of poverty*." Achieving the Millennium Development Goals requires much more than just providing developing countries with aid; coherent and comprehensive policies are essential in reducing poverty and fulfilling international development commitments. In the current global context, with the growing impact of internal policies in external relations and when ODA commitments are threathened by budgetary constrains and by the economic crisis in many traditional donors, the issues of aid effectiveness and policy coherence gain an increased importance for global development.

Policy Coherence for Development (PCD) is about ensuring that the external impacts of sectoral EU policies – both from European Union (EU) institutions and Member States – contribute to (or at least do not undermine) the aims and objectives of EU development cooperation. Awareness of the external impact of EU policies beyond development has grown within European institutions and the importance of PCD seems widely recognised, having a clear legal basis and political commitment (see Box 1). The pressure and awareness role played by many NGOs and research institutions, highlighting the lack of coherence and concerns over negative impacts of EU development and relevant policies on developing countries, also played an important role to advance PCD in the EU.

Political commitment and legal framework for PCD within the EU

Within the EU, coherence was one of the three Cs – coherence, coordination and complementarity – incorporated in article 178 of the Treaty of Maastricht in 1992, when European development cooperation was given a legal basis for the first time. Article 178 of the EC Treaty reads: "The Community shall take account of the [development] objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries."

The principles of coherence and consistency are further enshrined in the Lisbon Treaty. Article 21 reads: "The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure consistency and shall cooperate to that effect."

Moreover, Article 208 says that the primary objective of the Union development cooperation policy is "the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."

Political commitment of the EU to enhance PCD is clearly included in the 2005 European Consensus on Development, which states that "The EU is fully committed to taking action to advance Policy Coherence for Development in a number of areas. It is important that non-development policies assist developing countries' efforts in achieving the MDGs. The EU shall take account of the objectives of development cooperation in all policies that it implements which are likely to affect developing countries. To make this commitment a reality, the EU will strengthen policy coherence for development procedures, instruments and mechanisms at all levels, and secure adequate resources and share best practice to further these aims. This constitutes a substantial additional EU contribution to the achievement of the MDGs."

Since 2005, action has been undertaken in order to review and improve the EU policy making processes with the aim of integrating development considerations into non-aid policies. The Council identified 12 priority policy areas in which they called upon the EC to pay special attention to improving policy coherence: trade, environment, climate change, security, agriculture, fisheries, social dimension of globalisation, migration, research and innovation, information society, transport, and energy. These were narrowed to five sectoral priorities: trade and finance, climate change, food security, migrations, and security.

The European Commission since 2007, reports biannually on the progress made towards enhancing policy coherence for development. The European Parliament (EP) has approved a resolution on "EU Policy Coherence for Development and the 'Official Development Assistance plus' concept" (2010), based on a report by Franziska Keller, EP Committee on Development, this has led to the creation of a PCD standing rapporteur in the European Parliament; MEP Birgit Schnieber Jastram, who at the time of writing, is preparing the second EP report on PCD. Some Communications from the Commission have contributed to the approval of several Council Conclusions on PCD, namely in 2006, 2007 and 2009.

While potentially PCD is one of the most powerful instruments in the fight against poverty, making sure it is effectivelly implemented is an enormous challenge. In practice, PCD remains a somewhat distant target in the EU and it is still unclear how politically committed EU governments and institutions really are to PCD. The conflict between short-term (political, economic) interests and long-term (development) goals, the gap between political declarations and implementation, the proliferation of actors in charge of development cooperation, and the lack of political leardership or clarity of mandates are some of the factors undermining greater progress in this matter.

Additionally, examples of incoherence are also easy to find. The fact that OECD countries provide agricultural subsidies to their farmers, while developing countries are encouraged to export agricultural produce to world markets, makes little economic sense. The effects of the EU's Common Agricultural Policy on food security in developing countries are highly debatable and the impact of the EU's fisheries policy on the global environment and on biodiversity, migration and security is nowadays rarely denied. Furthermore, there is also incoherence when donor aid policies help to boost exports, which then face import barriers in donor countries. Similarly, new policy inconsistencies may start to emerge if developed countries ostensibly seek to mitigate global warming through "green protectionism", negatively impacting developing-country exports. In this context, the impact of the negotiations on the Economic Partnership Agreements (EPAs) on regional integration in Africa has clearly undermined EU-Africa relations as a whole. This publication shows how different EU policies impact in other countries' development and highlights some incoherencies between EU development objectives and other policies, namely on some sensitive issues as fair taxes, biofuel and energy, raw materials or fisheries.

It is important to acknowledge that full coherence will never be achieved, that trade-offs between conflicting objectives are inevitable and that some degree of inconsistency is unavoidable. Nevertheless, the analysis of these case-studies demonstrates that the EU can do much more to enhance the positive effects for development of its own policy choices in other policy areas.

Regarding this matter, Paul Engel mentions that: "The effects of this go far beyond mere inefficiency and maladministration, because this incoherence greatly reduces the Union's political credibility within Europe and worldwide. Addressing this incoherence should go far beyond the old maxim of 'doing no harm'. The ambition of an EU foreign policy that is coherent from a development perspective implies taking a long-term partnership approach that can create synergies between policy areas, for instance by ensuring that technically sound climate change and environment policies are promoted as integrate parts of the EU's cooperation strategies with emerging giants like China, India and Brazil and also with the least developed countries" . In this context, the role of EU's new European External Action Service (EEAS) in promoting continuous dialogue between development and other areas of EU internal and external action is still to be seen.

The case-studies included here contribute to a better understanding of the dynamics of decision-making in the EU and the constraints to implement PCD as an effective target and criteria in sectoral policies. The importance of collecting relevant data and building capacity to measure development impacts, the importance of involving and consulting both internal and external stakeholders in this issue, or the need for evidence-based costs of incoherence – all are highlighted by the case-studies.

Since policy incoherence is to a considerable extent a matter of diverging interests, political leadership and high-level support for development are, first and foremost, a crucial aspect in this matter. To ensure that PCD processes do not become too much in-ward looking, political decisions on this issue must also be informed by the views of those most directly affected, i.e. the government and societies of the developing countries concerned.

This publication comes at an important time as the EU reforms its agricultural, trade, fisheries and development policies. Recognising the mutual and long-term benefits of pursuing development objectives will require more than legal frameworks or policy statements. In the discussion of a post-2015 global development agenda, PCD will certainly have an important role to play and the EU could show its true commitment to global development by shifting from rethorics to implementation and ensuring a leading role in this process.

The role of Policy Makers: making the change from Policy Incoherence to Fair Politics

Policy makers be it (European) parliamentarians or civil servants working for national ministries, the European Commission or the External Action Service, be it the President of the European Commission or the Foreign Affairs minister of France or The Netherlands, you are the one who can make a change to make sure developing countries receive a real chance. There are plenty of ways to make sure European and national policies become more coherent to the development goals we have set, from our own national development cooperation policies, to the European development cooperation policy to the UN Millennium Development Goals, these will only become reality when there are no more incoherent policies standing in the way!

HOW?

Both in national and European Parliaments policies can be questioned, put on the agenda and can (urged to) be altered by means of parliamentary resolutions. Members of Parliament can propose amendments and can raise awareness about inconsistencies within policies. The cases discussed in this manual are examples of policies that are still today incoherent to development objectives, the recommendations provided are suggestions as to how these policies could be changed for the better!

Civil servants working for ministries or the Commission can provide more in depth expertise in terms of particular policies and what kind of alterations are possible. They can request for impact assessments to be executed and they can get in touch with their counterparts in developing countries, as to how particular policies are currently harmful and how they could in the end contribute to local development.

Of course this is all not possible without political will; this is where the Heads of State, the Commissioners and the Ministers come in. They need to be willing to commit politically to more Policy Coherence for Development and translate these commitments into action. This can be done by installing PCD mechanisms within their institutions, to make sure that among ministries there is better cooperation, to make sure that development specialists are listened to when there is a policy at stake which might impact on development. Because in the end the well being of people in developing countries is in everybody's interest in today's interconnected world.

In the past few years in the framework of the project "Policy Coherence for Development; making development work better", the partners in this project have monitored the actions of Members of the European, Dutch, Czech, Portuguese and Estonian parliaments to enhance PCD. Today many parliamentarians from different Member States and from different political spectrums have committed to work on more Policy Coherence for Development.

THE GROWING IMPORTANCE OF PCD

PCD is increasingly being addressed by policy- and decision-makers in their speeches and political action. Herewith are some examples, including testimonials of Members of the European Parliament and of National Parliaments who have been striving for more Policy Coherence for Development.

From the OECD and EU…

"(..) There is growing awareness that policies and practices in a wide range of areas - at the global, national and local levels - can have major impacts on the ability of developing countries to make sustainable progress. This can include trade, investment, agriculture and fisheries, taxation, security, innovation and migration. The OECD can and should play an important role in promoting PCD".

Rintaro Tamaki
Deputy Secretary-General for Development, OECD

"I will pursue tangible process in Policy Coherence for Development, so that other policies of the EU, such as trade, research, migration, Common Foreign and Security Policy (CFSP), agriculture and fisheries release their potential to contribute positively to development. And I will boost the way in which other financial means, be it public of private, can be better leveraged to enhance resources for development."

Andris Piebalgs
European Commissioner for Development
February 2010

"In our increasingly integrated world, promoting development in poor countries requires to go beyond traditional aid programmes. PCD is a commitment to help Developing Countries' benefit from the opportunities created by non-aid policies in the EU."

Karel De Gucht
European Commissioner for Trade
October 2009

“The challenge of development requires, among other factors, a permanent commitment and an increasing international investment in both quantity and quality of aid. On the one hand, it is essential that donors respect the commitments assumed in Monterrey and in the European Union framework regarding ODA levels, and that the global crisis does not result in a contraction of budgets for development cooperation; on the other hand, it is also essential that the financial efforts of all are applied as effectively and efficiently as possible. Public opinion in donor countries would not understand any other attitude. (...) The requirement of coherent, serious and effective policies that respect the public and private investment, from NGDO and taxpayers, must continue to be the central focus of our action.”

João Gomes Cravinho,
Former Secretary of State for Foreign Affairs and Co-operation
“Coherence of Policies: the Challenge of Development”, Public Session, Portuguese Parliament, January 2011

“The discussion of a strategic framework to help developing countries meet the challenges of food security, although welcome and necessary, is inseparable from the necessary debate about the coherence between this objective and the sectoral policies of the European Union, such as agriculture, trade or energy policies – just to mention three examples. And the truth is that there is a glaring incoherence today. In fact, free trade, the promotion of models of intensive production, exports-oriented, threatening and destroying the small and medium agriculture and family farming, and the pressure for the use of fertile land for other purposes than food production (just to mention some exemples) – all of these threaten the food sovereignty of developing countries.”

João Ferreira
MEP for the European United Left-Nordic Green Left
“Assistance to developing countries to meet the challenges of food security” (oral intervention) September 2011

"I chose to pursue this agenda in Parliament as a question of education and belief. I believe that I can make a contribution in Parliament to get these issues into the agenda, so that these matters are treated as major public policies as I believe it should be. I also believe that, in the future, Development Cooperation must be coordinated between the State and private institutions; between nation states and international organisations, with civil society playing the essential role of ripping the indifference off and forcing us to look at ourselves, at our world and to think about the way we deal with development cooperation."

Mónica Ferro
Member of the Portuguese Parliament, 12th Legislature
October 2011

"This meeting is about an issue – the coherence of cooperation policies – that is an important challenge (...) Coherence of cooperation policies at two levels: the intrinsic coherence between different organizations and plans that are directly committed, either nationally or in the international organisations we are part of, namely within cooperation policy at European level, to a coherence in their action (...) but also a political challenge of greater importance that has been reflected over the last few years, an extrinsic coherence between cooperation policy and other policies of member states and the European Union, namely trade policies, foreign policy, financial policy, since it is known that our policies – the policies of the developed world – can cause indirect damages to the countries we are helping with the cooperation policy".

José Ribeiro e Castro
Former chair of the Commission of Foreign Affairs and Portuguese Communities, Portuguese Parliament
"Coherence of Policies: the Challenge of Development", Public Session
January 2011

“One possibility for motivating developing nations to use environmentally friendly technology is through development assistance projects that emphasise such solutions. This would also give Third World countries a good chance to formulate an appropriate and ecologically balanced growth strategy for themselves.”
“Since 1998 the development co-operation sector has been an increasingly important foreign policy instrument for Estonia. Estonia has steadily increased its share and intends to advance its status and role among other international donors. Estonia has not yet any bilateral programmes in Africa. However, through the EU and voluntary contributions and several United Nations agencies, Estonia has rendered assistance to the countries in Africa inflicted by natural disasters or armed conflicts. Among all challenges facing Africa today I would like to refer to the two key priorities: education and the fight against AIDS.

Urmas Paet
Foreign Minister of Estonia
June and September 2008

“I am very grateful for this manual. This publication is extremely important because Policy Coherence for Development will be crucial as long as European policies have an external impact - that means forever. I would even go further and say that PCD is the politics of the future! Why is that? Firstly, we will establish something more akin to a real and sustainable partnership with developing countries. Secondly, we will free development policy of its role as a repair station for other policies that do harm in the world. Thirdly, we will profit because coherent and fair policies will give the governments and societies of developing countries the chance and the responsibility to generate successes on their own. So, we already have the better arguments. But, too often, there is still a lack of political will for PCD. Two things are needed to change that: more knowledge and more awareness! This manual can hopefully help to generate both”.

Birgit Schnieber Jastram
MEP for the Christian Democrats and PCD standing rapporteur

“Policy Coherence for Development means not to take with one hand what you give with the other. We cannot on the one side assist poorer countries in developing their agriculture and combating hunger and on the other side dump our cheap products and destroy the local markets. Lots of policy measures that we take in the European Union have an effect on the outside world and this impact must not be ignored but taken into account when decisions are made. Policy coherence for development means also to create a fair structure of the world trading, agriculture, climate and finance system so that developing countries do not suffer from disadvantages but can exploit fully their potential. The ultimate goal of development policy should be to get superfluous - PCD is a major contributor to that!”

Franziska Keller
MEP for the Greens, rapporteur of the first report on PCD within the European Parliament

"As the largest donor of development aid in the world, Europe tries to set a positive example for other developed countries. However, aid alone is not enough to actually help the development of poor countries in Africa, Asia and Latin America. If Europe would do as promised in article 208 of the Lisbon Treaty, namely that all European policies are coherent with the objective of poverty eradication, it would have much more impact on sustainable economic growth in developing countries. Therefore it is of vital importance that we keep checking if the European raw materials policy, trade policy, fisheries policy, agriculture policy, IPR policy and many more, are indeed in line with the European development policy."

Thijs Berman
MEP for the Socialists and Democrats

"Increased global interdependence in the 21st century means that many of our EU policies have a significant, and sometimes negative, impact on developing countries. The benefit of development aid is often overshadowed by the effects and unintended consequences of EU policies on trade, raw materials, agriculture and industry. Internal EU decisions need to be coherent with external development objectives, as indeed they are obliged to be under Article 208 of the Lisbon Treaty. It is the duty of MEPs as policy makers to look beyond the EU's borders and ensure policy coherence for development even though this may mean less straight-forward choices. Furthermore, with the public purse under particular strain at the moment, it's vital to ensure the maximum effectiveness of aid spending and make certain that what we are giving with one hand, we are not taking away with the other."

Fiona Hall
MEP for the Alliance of Liberals and Democrats for Europe

PART II:
CASE-STUDIES

IN THE PURSUIT OF A MORE COHERENT CAP FOR DEVELOPMENT? MIND YOUR STEP!

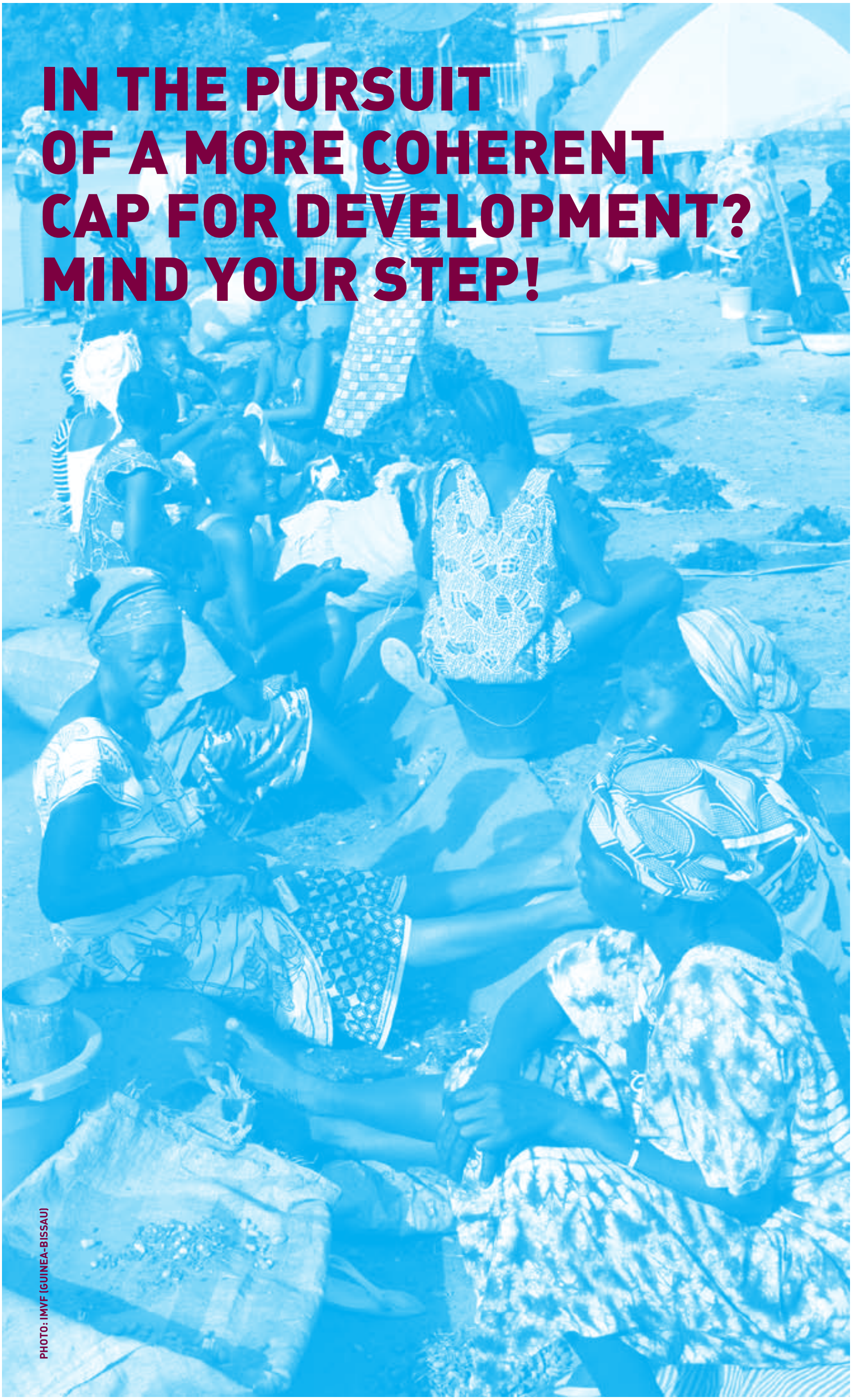


PHOTO: IMVF (GUINEA-BISSAU)

"Maintaining huge farm subsidies in the West cannot be justified by the objective of 'feeding the world'. If increases in food production rise in tandem with further marginalisation of small-scale farmers in developing countries, the battle against hunger and malnutrition will be lost."[1]

Olivier de Schutter, United Nations Special Rapporteur on the Right to Food.

INTRODUCTION

Although the Common Agriculture Policy (CAP) is established by the European Union (EU) in favor of the EU, it is far from impacting European farming only. Every day, thousands of boats are freighting tons of agricultural commodities around the planet. Large amounts of food come in and out European ports, going to or coming from all corners of the EU. Annually, the EU imports in average for €83 billion and for € 82 billion of exports, which makes it the biggest importer and also exporter on a par with the United States (USA). Its exports represent around 18 % of world exports[2]. With such a level of interconnectedness, what is done and decided in Europe can have far-reaching impacts and affect negatively the livelihoods of the poorest people on the planet.

Yet, the planet's poorest are also strongly supported by the EU through its development policy. The EU supports the efforts of many countries (especially those most off track with achievement of the MDGs) to alleviate poverty and ensure food security in particular. Incorporating development concerns in non-development policies is at the core of the concept of Policy Coherence for Development (PCD).

The current reform process of the CAP is a chance to address incoherencies and foster a policy that is in line with the numerous challenges the world is facing today. By 2050, 9 billion people are expected to live on a planet with limited resources that are being increasingly strained by climate changes. This growing population is to live in Southern countries where food security challenges are most acute and inequality gaps are widening.

Whilst a new reform is a chance, the road towards increased CAP coherence is a difficult journey, and the advocacy work lead by many NGOs is paved with jutting stones. The legislative proposals presented by the European Commission (EC) to reform the CAP are making no advancements in terms of coherence, and this is particularly regretful given the fact that the EC itself endorsed the CAP reform as a key moment in its work programme on Food Security. This briefing paper will review the official approach to CAP coherence for development and discuss five main obstacles that are making the pursuit of increased coherence more difficult. This paper is primarily aimed at Civil Society Organisations (CSOs) and decision makers engaged in the pursuit of a more responsible CAP towards the poor.

THE CAP: COHERENT OR NOT, WHAT DOES THE EU SAY?

The official efforts to monitor the progress of PCD are spearheaded by the European Commission. At a national level, human and financial resources allocated to PCD in the administration remain low. In the last two years, 10 EU Member States have failed to invest any additional human resources in

PCD-related work, and they pursued it with current allocation of staff[3]. National administrations thus widely rely on the existing intelligence of the European Commission, and only a few of them initiated their own review of the CAP coherence for development. It follows that the approach to the CAP PCD on the part of officials from Member States and Members of the European Parliament converge with the assessment made by the European Commission; this can be observed at times of dialogues on PCD with civil society organisations.

Several official documents from the European Commission review the state of CAP´s coherence for development. The most useful documents in this regard are the Progress Report on Policy Coherence from 2009 composed of a Commission working paper and a Commission staff working paper, and the Report from 2011 made only of a Commission staff working paper. More insights are found in the Impact Assessment of the Common Agriculture Policy towards 2020, a Commission Staff working paper, and in particular, its Annex no. 12 on developing countries.

> CAP Coherence for Development =
> Less distortive subsidies, more imports,
> and a potential to feed
> the growing world population...

In the 2007 EU report, the EC recognised that "in the past the economies of developing countries had to face competition from subsidised EC agriculture exports"[4]. Nowadays, it estimates that "the form and the extent in which the CAP would affect developing countries is not clearly established"[5] and that it can do so by influencing, directly, local prices or influencing world prices. Changes in world prices can in turn influence the terms of trade of developing countries. It is complicated to measure the concrete impact of the CAP because the ways in which the EU price influences foreign local prices, so-called price transmission mechanisms, are difficult to establish. It can differ from country to country and vary within one country if the market is fragmented.

But the EC is certain that market-distortive effects have been "neutralised to a very big extent" thanks to the reforms of the CAP. First of all, coupled payments (payments linked with a certain type of production) have been gradually replaced by direct payments (based on the surface). Coupled payments and other measures under World Trade Organisation (WTO) rules are considered as highly trade distortive (belonging to the so-called Amber box; required to decrease) or trade distortive (and are part of the Blue box; required to decrease) while direct payments are considered non- or minimally trade distortive (and belong to the Green box; not limited in amount). Moreover,

”the use of export refunds by the EU has been declining strongly over time: in 2010, the expenditure for export refunds for agricultural products from the EU was €166 million, while in 2000 the refunds were €5.6 billion. This level is well below 1 % of CAP expenditure.“[6] In the context of WTO negotiations, the EU offered to eliminate all export subsidies by 2013.

Secondly, besides reducing the negative effects of its exports, the EC also positively assesses its position of first buyer of agricultural commodities from developing countries. It is exporting more than the next 5 exporters combined, due to ”the duty-free access granted through Free Trade Agreements (FTAs), including the Economic Partnership Agreements (EPAs) with African, Caribbean and Pacific (ACP) countries and the Everything But Arms Initiative (EBA), under the Generalised System of Preferences (GSP)“.[7]

On these two first points on exports and imports, the EC concludes that “The CAP’s successive reforms since 1992 have steered its orientation towards more coherent and efficient policies and away from trade-distorting principles and instruments that may place strains on developing countries’ agricultural development and growth.”[8]

A third advancement regarding PCD is perceived as the feeding role the EU can play in global food security. Given the increased demand for agricultural commodities resulting from a growing world population, changes in consumption patterns, and demand for agrofuels, it is justified ”to not only ensure food security within the EU, but also to participate actively in global food security. Europe still has considerable growth capacity with regard to agricultural production, not only due to large natural production but also due to the available new technologies and efficient organisation of the food chain“[9].

STUMBLING STONES AND DEADLOCKS

As EC assessed it, the impact of the CAP on developing countries today is not clearly established, and it is not easy to isolate it from other factors and responsibilities. Yet, several NGOs keep bringing evidence that the CAP and the European model of agriculture at large negatively affect the poor and that a lot more must still be achieved in regards to CAP coherence. But the dialogue is not easy and often keeps stumbling on the same five points.

a. COHERENCE FOR WHAT?

It is not rare that the discussion stumbles due to a diverging understanding of the ”D“ of PCD. Development is often spontaneously associated with the concept of growth, without qualifications such as ”pro-poor“ growth or ”inclusive“ growth. If adopting this bare ”growth = development“ approach, one may not have any critiques to make regarding mass soy imports on which the EU depends to feed its livestock, mostly supplied by large-scale producers.

In such a scheme, a lot of expectations are put on government to make development a reality for the poor through redistributive policies that will spread the benefits of growth. But this positive scenario remains more the exception than the rule and is not without big cracks. The example of Argentina is interesting in this regard.

Divergences on the notion of development are also often expressed by means of differentiating the countries involved. Are we considering emerging countries, with rapid growth such as Brazil, Russia, India, China, Indonesia, and South Korea or developing countries and least developed ones such as Bangladesh, Laos, Haiti and the majority of African countries? The practice of dividing nations in categories blurs the fact that even within emerging markets, a large part of the population is impoverished.

Setting the human right to food as the benchmark for coherent policies

The right-based approach to development adopted by most development NGOs defends the inclusion of the poor and marginalised from the very outset of economic development (and not as the final recipient of redistributive measures). It also places them as its central actor. As Armatya Sen explained in the early 80s, already in answer to growth approaches embedded in structural adjustment programmes, poverty can no longer be regarded as a purely economic problem that can be measured in terms of income alone. Rather, it is a lack of assets, opportunities, and entitlements that prevent the well-being of people. Poverty is both induced by human rights violations and becomes a root cause of several human rights violations.

Clarifying the “D” of “PCD” is therefore important in order to make the benchmark of the assessment clear. Otherwise, the concept often gets watered down, losing its core meaning, and this further leads to an incomplete assessment of what is or is not coherent for development. The action of the EU on food security can be used as a reference so as to specify what to be coherent for.

Policy coherence for food security

Since 2005, the EU Council of Ministers has entrusted the EU with ensuring the improvement of coherence of EU policies and development goals. The original 12 policy priorities from 2005 (trade, environment, climate change, security, agriculture, fisheries, social dimension of globalisation, migration, research and innovation, information society, transport, and energy) have been replaced by five global challenges (trade and finance, climate change, food security, migration and security) in 2009 and complemented in 2010 by a European Commission's work program with concrete targets and indicators. This change implies that the EC refocuses PCD on long term objectives, and thus intends to review several policies that affect each of the five global challenges, i.e., for 'food security': trade, agriculture, fisheries, transport, climate change policies.[10]

Besides the EC work program, the different aspects of EU efforts regarding food security have been further laid down in the comprehensive "EU Policy Framework to Assist Developing Countries in Addressing Food Security Challenges"[11]. In this briefing paper for EU action (including Member States), the EU puts special emphasis on supporting the smallholder sector. "This new EU framework therefore concentrates on enhancing incomes of smallholder farmers and the resilience of vulnerable communities, supporting the resolve of countries that prioritise agriculture and food security in their development efforts."[12]

Moreover, it supports the application of a "Right to Food Approach". "This means supporting strategies which tackle the root causes of hunger, and empowerment of marginalised groups in the design, implementation and monitoring of national programmes, as well as establishing and strengthening redress mechanisms."[13] The 2011 EU PCD report states that "the Communication sets out priorities for EU action on food security, which should act as priority benchmarks / indicators for PCD actions on food security.

Yet, although the Communication on Policy Framework is referred to in the Annex of the CAP Impact Assessment, it has so far not been used as a benchmark to assess CAP coherence for food security.

b. LESS EXPORTS REFUNDS OR MORE DISGUISED EXPORT REFUNDS?

As presented above, the EC estimates that the reduction of export refunds on one hand and the compliance of most of CAP subsidies with WTO green box criteria on the other hand jointly guarantee a stronger coherence.

With the reduction of exports refunds, less food surplus could be dumped, in comparison to the years 80s and early 90s. The WTO agreement on Agriculture signed in 1994 obliged all signatories to reduce export refunds both in volume and financially. The EU was particularly concerned by this requirement and reformed the CAP in accordance.

At the 2005 WTO Ministerial Meeting
in Hong Kong,
the EU committed to phase out all export subsidies by 2013.

Still €166 million were spent in export subsidies in 2010; and export refunds are a part of the CAP legislative proposals despite the fact that the EC proposed to eliminate them by 2013 in 2005. Their activation is on and off but despite EU´s commitment they have been largely used at the beginning of 2009 to export dairy powder, causing real despair for other dairy farmers who benefit neither from sufficient support nor protection.

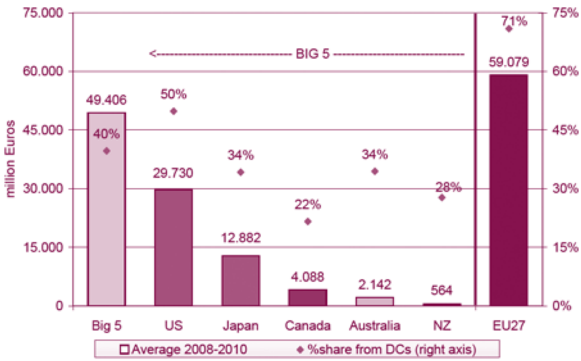
How Czech dairy exports harm the poor in Bangladesh

Czech Republic, along with Denmark, is a major European exporter of dairy powder to Bangladesh. In 2009, it was estimated by International Farm Comparison Network (IFCN)[14] that the reduction of the world milk price by 2.5€, caused by an export refund of 5€ per 100kg of milk, significantly affected the lives of more than 5 million Bangladeshi people. Such a reduction of milk price reduces the income of small dairy households by 7 to 16 %. Especially for the very poor families (5 or 6 people) having two cows and limited access to off-farm jobs, such decrease means that the family can neither buy its daily foods nor send children to school.

Without Green Box subsidies, most countries would move towards self-sufficiency in agriculture as imports of all countries decline.

Moreover, direct payments, although compatible with WTO green box, act as disguised export subsidies. They have replaced export subsidies and other coupled payments (cf. graph I). For producers in developing countries, it does not matter which form the support takes; the present system continues to enable the exports of commodities at prices lower than European costs of production. Therefore, direct payments confer to exported European products an advantage towards similar products from Southern small-scale farmers. Research from the Uniter Nations Conference on Trade and Development (UNCTAD) reveals that subsidies under Green Box ”do not meet the criteria of non or minimally distorting production and trade“[15]. Without GB subsidies “countries like the US, EU, and Canada find their exports declining by about 40 % or more“ and production would be shifted to Southern countries. „Most countries would also move towards self-sufficiency in agriculture as imports of all countries decline“[16].

Graph 1: Type of subsidies under the CAP



What would happen without Green Box subsidies?

1) agricultural production in developing countries will increase if Green Box subsidies are removed;

2) there will be a mildly positive impact on global agricultural production;

3) agricultural imports at a global level will decline;

4) exports from developing countries will increase;

5) agricultural wages in developing countries will rise;

6) agricultural employment in developing countries as well as at the global level will rise;

7) agricultural production in net food importing countries will increase.

All these effects combined will have a poverty-alleviating effect on rural people in developing and poor countries.

Source: UNCTAD India Team, May 2007

Thus, commodities may be sold cheaper because of direct payments; but sometimes also simply because the profit was already realised on a specific part of the product. The case of German, Dutch but also Brazilian exports of chicken parts in Western Africa illustrates it. Since a comfortable profit can be achieved on chicken breast (most favoured by European consumers) other less noble parts, such as the wings and legs, can be shipped frozen and sold for an extremely low price on developing countries' markets. Although these products are attractive for poor urban population who are happy to buy ready-to-cook pieces of chicken, they caused thousands of farmers to go bankrupt; for them, the drop in price is simply impossible to follow.

c. ARE IMPORTS ALWAYS A GOOD THING?

The less well known effects are those concerning European imports. Assumed as coherent overall, it is not clear how big is the share of European imports that creates opportunities for small-scale producers. In many cases, smallholders are being excluded from it. Contrary to the common belief that Europe feeds the world, Europe is fed by the rest of the world. In order to meet European consumption, in addition to European production, we need foreign land equal to the size of Germany. Satisfying our consumption demands is relying heavily on land and water from other countries and often marginalises small scale farmers.

> To feed European cattle, a territory three times the size of the Czech Republic is required from outside the EU

All soybean meal (animal feed) imported by the EU comes from Argentina and Brazil. The EU imported 45 million tons of feed for animals in 2008[17]. Most of it was soy from Brazil, Argentina, and the United States. This means that in order to feed European cattle, 20 million hectares of foreign land are required, almost three times the entire territory of the Czech Republic. If this demand creates opportunities for foreign producers, it does so for large-scale production, not small-scale farmers. It also leads to further deforestation, displacement of small scale farmers to marginal land and it keeps many countries in investing primarily in export crops rather than staple crops for strengthening their own food security. As the Special rapporteur on the right to food Olivier De Schutter says, this dependence of the EU on protein from abroad is ”neither inevitable nor necessary“[18]. The EU could develop its own production, with positive impacts on European farmers´ revenues, climate change, and biodiversity.

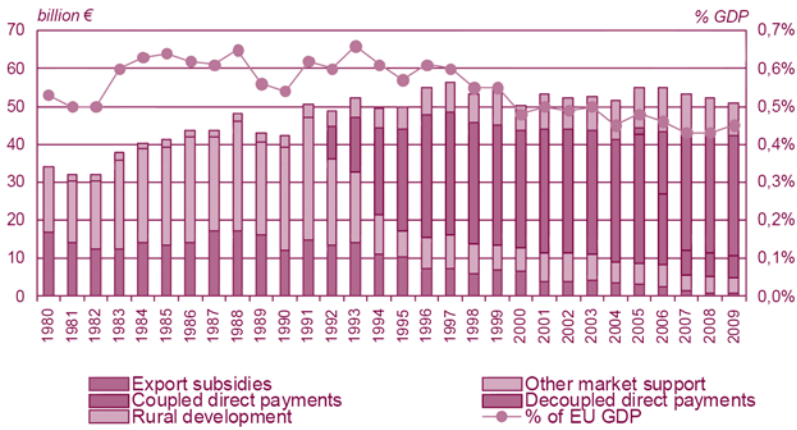
How much do soy exports benefit the Argentinian poor?

The economy of Argentina is booming, and this is largely due to its soy exports. Nowadays, Argentina is the first exporter of soy oil and the third largest exporter of soybean, and it has thus largely benefited from the fact that soy prices have tripled since 2002. Since Argentina´s default on their debt in 2001, GDP has grown by 79,5%.[19] With the revenues from soy export taxes, the government has been increasing its spending on social and welfare programmes. But if a large part of the population certainly benefits from it, it comes at a huge social price for many others. The highly mechanised model of soy production is leading to unemployment and food insecurity in rural areas. Only two workers are required to produce a thousand hectares of soy. Between 2000 and 2005, soy fields replaced 4.6 million hectares of land previously used for a variety of food production. With the local supply of potatoes, beans, peas, lentils, and eggs continuously decreasing, the number of people lacking access to basic food increased: they are now becoming recipients of the redistributive policies of the government[20]. Thus the current soybean business is fuelling growth but it does so by excluding small-scale farmers and at the expense of food security.

But even the partial (indirect) welfare generated by the soy business has been compromised by the EU! Argentina is part of the Mercosur group with which the EU is negotiating a Free Trade Agreement (FTA). One of EU´s requests is that Argentina suppresses its export tax on soy in order to push down the price for European importers. The road to coherence is made even longer...

Finally, although the EU largely opens its market for foreign raw commodities, such as soya, by keeping tariffs low, it maintains higher tariffs when it comes to higher value added products, such as processed tea, packed in tea-bags. It maintains developing countries´ economies as essentially providers of raw commodities and materials, losing a chance to develop their processing sector.

Graph 2: EU 27- Agricultural Imports from developing countries



d. AND WHEN WE LOOK BEYOND EXPORTS AND IMPORTS…

The question of the CAP coherence is approached in EC documents as essentially evolving around prices; in fact, what might even be more problematic than price levels is the dualisation of farming systems our European model of production and consumption creates abroad. By outsourcing a part of our agriculture and exporting our products in the search of the most competitive formula, we encourage a model of agriculture abroad that is no longer in the hands of small-scale producers. Nevertheless, there remains a vast majority of farmers on the planet who are feeding the bulk of the world population. This situation of imbalance between intensive large scale farming and small-scale production, is also caused by large-scale land acquisitions for growing crops for agrofuels destined for the European market.

Imbalances in food chains and export-oriented agriculture lead to dualisation of farming systems

The process of marginalisation of small-scale farmers is particularly reinforced by the increasing power of the international agro-industry; many of the companies are seated in Europe. Their international position logically allows them to choose the most cost-effective suppliers. In practice, the standards they impose can only be met by large producers rather than small-scale farmers, with insufficient equipment who are geographically dispersed. This leads to two effects. Firstly, it increases the imbalance of power in the food chain; thereby, a huge number of food producers are in a weaker position than a smaller number of agro-food industries, and they are pushed to reduce their production costs as much as possible. Secondly, it leads to the dualization of farming between large-scale intensive producers and small-scale farmers mentioned above.

e. WHO SHOULD TAKE ACTION?

One factor slowing down CAP coherence is the issue of responsibilities. During dialogues with the CSOs, EU or national policy makers tend to minimise the incoherencies and disengage from the obligations of the PCD on the grounds of various reasons discussed herein. First and foremost, it remains laborious to run impact assessment and try to isolate the exact causal relation between CAP measures and the problem at stake. In 2011, the EC itself has initiated 5 country case studies assessing CAP coherence to food security that have not yet been achieved due to methodological difficulties. But this should not represent a reason for giving up on the CAP PCD altogether. In this sense, the European NGO Confederation for Relief and Development (CONCORD) has urged the EU "to accept non-casual and non-linear impacts and to allow evidence-based analysis that takes account of the interconnectedness of policies and actors as well as responses and interactions of people on the ground."[21] The EC should also set mechanisms to monitor the impacts of the CAP and other policies on food security regularly and with the involvement of populations concerned.

Secondly, oftentimes, local conditions are determining the extent to which the incoherence will be detrimental or not. The governments of developing countries do not always make use of the tools that could shield small-scale farmers, such as bound tariffs to protect against dumped food. Small-scale farmers therefore often stand alone in facing the negative impacts induced by the incoherent European and national policies. This calls on national governments to seriously and coherently address food insecurity by adopting a long-term perspective rather than giving prevalence to short-term interests.

Another fact is that the EU is not alone in creating difficulties for the poor abroad. It is being joined or even replaced by other countries, as the above mentioned example on poultry illustrated. This situation calls for international regulatory policies and refunding of the WTO system.

Finally, although the regulatory forces of states and the international community are key, they cannot work without the active participation of businesses and citizens. Responsible behaviour on behalf of the agro-food industry and consumers can make a big difference in limiting the negative impacts on the poor and supporting the empowering development of small-scale farming for securing livelihoods.

While EC and national policy makers often underscore the importance to re-launch agriculture in developing countries as a response to the incoherencies presented earlier, they should not forget the EU´s international obligations with respect to human rights. These obligations do not only apply towards European citizens but also to people outside EU territory (extra-territorial obligations). The right to food stands as an essential right when the world still counts close to a billion hungry people. Acting on the sources of incoherencies today is required in order to truly respect, protect, and fulfil the human right to food and thereby address the root causes of food insecurity.

WHAT NEEDS TO BE DONE?

There is no easy ride on the road towards a coherent Common Agriculture Policy. We should inspect the rear-view mirror more often and more carefully to monitor whether or not the CAP leaves any traces on food security in developing countries. If the EU truly wants to make the CAP a policy that limits the damage and is supportive of food security in the rest of the world, it will take more than simply reshaping subsidies and importing any agricultural commodity from developing countries. Moreover, rather than aiming to feed a growing world, the EU should aim at supporting developing countries so that they can feed themselves.

Glopolis supports the recommendations of CONCORD[22] towards the European Parliament and EU Member States who will co-decide on the future of the CAP:

1. Insert a formal reference to Policy Coherence for Development in all new CAP legislative texts
2. Ban export subsidies, or at the very least, the Council[23] must reconfirm its WTO commitment to phase them out and in the meanwhile refrain from using export refunds for vulnerable countries, e.g. Least Developed Countries and ACP countries.
3. Prevent the export of any products under European costs of production. In order to do so, if an exported product has benefited from support, the value of the support should be added to its export value.
4. Take measures to ease the EU's dependence of unsustainable feedstuff imports.
5. Add an external dimension to the proposed CAP evaluation system to enable monitoring of the impact of the CAP on the right to food, on farmers´ incomes and livelihoods, and access to land in developing countries.
6. Establish a formal complaint mechanism entitled to receive and process complaints lodged by individuals and groups in developing countries affected by harmful deployment of CAP measures.

March 2012

Sources:

- CONCORD, Reaction to the 2011 EU Report on Policy Coherence for Development, CONCORD, Feb. 2012.
- CONCORD, ECVC, Joint Statement on the international responsibility of the CAP for the CAP Advisory Group on International Aspects, 7 March 2012.
- CONCORD, Recommendations to the European Parliament on the legislatives proposals on the Common Agriculture Policy after 2013: the need for Policy Coherence for Development, Feb. 2012.
- De Schutter, O., The Common Agricultural Policy towards 2020: The role of the European Union in supporting the realization of the right to food, United Nations, 17 June 2011.
- England, J., "Is Argentinian´s Economy Overheating?" in The Argentina Independent, 10 Aug. 2011.
- European Commission, EU policy framework to assist developing countries in addressing food security challenges (SEC(2010)379), Communication, 31 March 2010.
- European Commission, EU 2011 Report on Policy Coherence for Development (SEC(2011)1627), Commission Staff Working Paper, 15 Dec. 2011.
- European Commission, EU Report on Policy Coherence for Development, 2009.
- European Commission, Global and EU agricultural export rebound, MAP Newsletter, EC, May 2011.
- European Commission, Impact Assessment. The Common Agriculture Policy towards 2020 (SEC(2011)1153), Commission Staff Working paper, 20 Oct. 2011.
- Fritz, T.: Globalising Hunger: Food Security and the EU´s CAP, FDCL, 2011.
- Glopolis, Development in Domestic and Global Politics. Broader streams of post 2015-work, Glopolis, Dec. 2010.
- Hemme, t., Uddin, M.M., Dairy Policy Impacts on Bangladesh and EU 15 Dairy Farmers´ livelihoods, IFCN, Oct. 2009.
- UNCTAD India Team, Green Box Subsidies: A Theoretical and Empirical Assessment, UNCTAD, May 2007.

Notes:

[1] De Schutter, O., The Common Agricultural Policy towards 2020:The role of the European Union in supporting the realization of the right to food, United Nations, 17June 2011.

[2] European Commission, Global and EU agricultural export rebound, MAP Newsletter, EC, May 2011.

[3] European Commission, EU 2011 Report on Policy Coherence for Development (ŚEC(2011)1627),Commission Staff Working Paper, 15 Dec. 2011, p.19

[4] European Commission, EU report on Policy Coherence for Development, 2009, p.129

[5] European Commission, Impact Assessment. The Common Agriculture Policy towards 2020 (SEC(2011)1153), Commission Staff Working paper, 20 Oct. 2011, Annex 12, p.2

[6] EC, Impact Assessment,op.cit., p.5

[7] EC, Impact Assessment,op.cit., p.6

[8] EC, Impact Assessment,op.cit, p.7

[9] EC, EU 2011 PCD report, op.cit, p.64

[10] Glopolis, Development in Domestic and Global Politics. Broader streams of post 2015-work, Glopolis, Dec. 2010, p.16

[11] European Commission, EU policy framework to assist developing countries in addressing food security challenges (SEC(2010)379),Communication, 31 Mars 2010.

[12] EC, EU Policy Framework, op. cit., p.3

[13] EC, EU Policy Framework, op. cit., p.5

[14] Hemme, t., Uddin, M.M., Dairy policy impacts on Bangladesh and EU 15 dairy farmers´ livelihoods, IFCN, Oct. 2009, p.5

[15] UNCTAD India Team, Green Box Subsidies: A Theoretical and Empirical Assessment, UNCTAD, May 2007, p.77

[16] UNCTAD India Team, op.cit.,p..78

[17] De Schutter, O., op. cit, p.4

[18] De Schutter, O., op. cit. p.4

[19] England, J., "Is Argentinian´s Economy Overheating?" in The Argentina Independent, 10 Aug.2011.

[20] Fritz, T.: Globalising Hunger: Food Security and the EU´s CAP, FDCL, 2011.

[21] CONCORD Reaction to the 2011 EU Report on Policy Coherence for Development, February 2012.

[22] CONCORD is the European NGO confederation for relief and development. For the full recommendations confer : http://www.concordeurope.org/Files/media/0_internetdocumentsENG/4_Publications/3_CONCORDs_positions_and_studies/Positions2012/120213-CONCORD-letter-on-CAP-to-MEPs-FINAL.pdf; see also http://www.concordeurope.org/Files/media/0_internetdocumentsENG/5_Press/Position-studies/2011_03_07--Statement-on-CAP_-CONCORD_Via-Campesina.pdf

[23] Since the regulation on fixing certain aid and refunds (COM(2011) 629 final) is a Council Regulation, this could be implemented by a Council decision.

FAIR TAXES PROVIDING OPPORTUNITIES FOR DEVELOPING COUNTRIES!

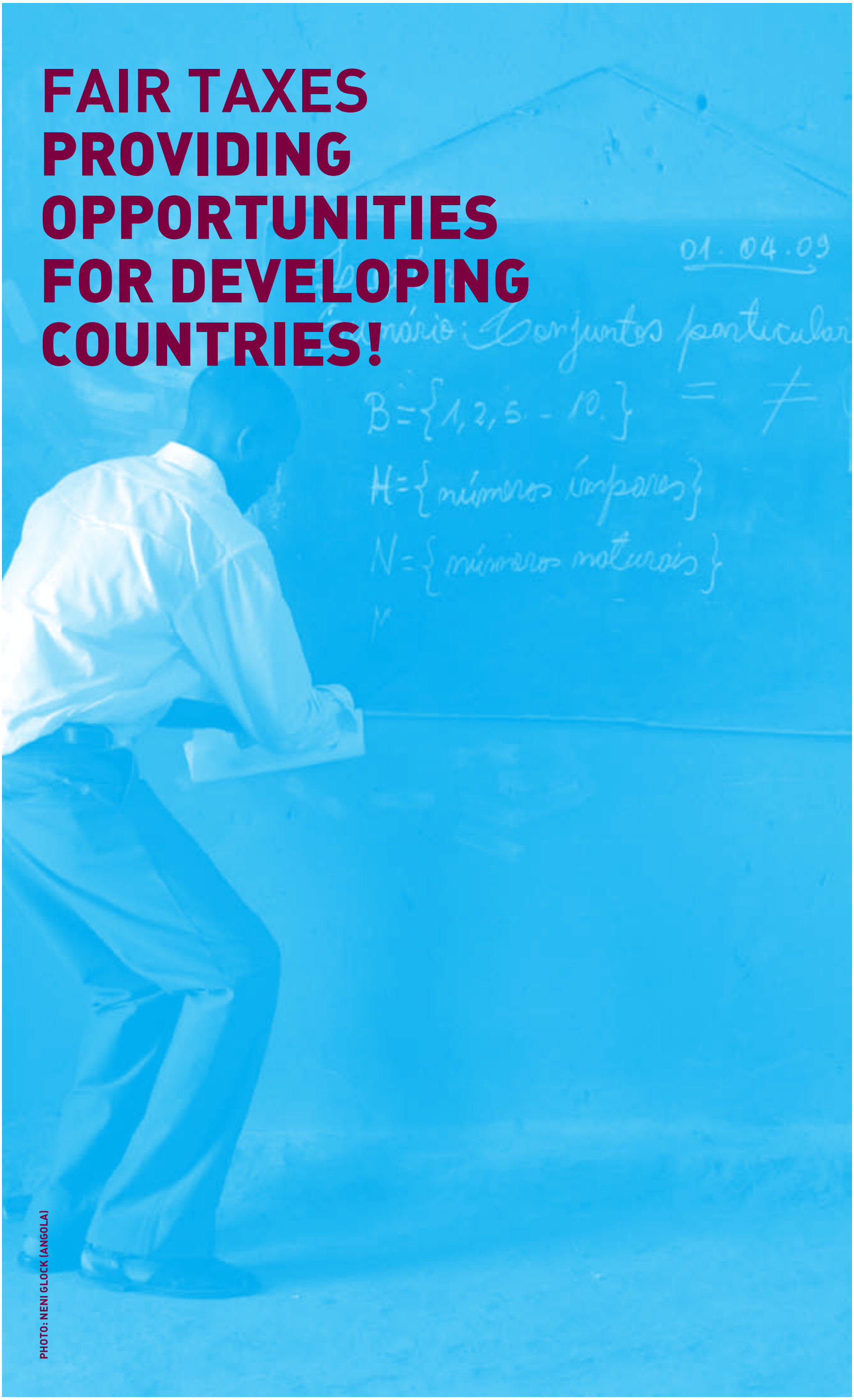


PHOTO: NENI GLOCK (ANGOLA)

The focus of development cooperation is usually on the amount of money transferred as aid from the North to the South. However a tremendous amount of money is leaving developing countries in the form of illegal financial flows. There is actually more money leaving developing countries than is received by overseas development aid. Estimates vary, but recent research shows that in the period 2000-2008 developing countries lost between $725 billion and $810 billion annually through illicit financial outflows.[1] The local governments are thus missing out on many funds, which they could spend to stimulate development. Therefore, on one hand, the EU is supporting developing countries by its development policy and aid programmes, but on the other hand the EU and in particular its Member States are enabling corporations to escape their tax responsibilities in developing countries. This is a flagrant case of incoherent policy.

Taxes are the most sustainable way of creating income for a government, because it is a stable and predictable form of revenue, especially compared to foreign loans or aid. Raising tax income in developing countries would increase their independence, since they would need fewer loans and aid and they could invest more in sectors like education, healthcare and infrastructure, which are traditionally financed from tax revenues. Therefore taxation has many benefits and contributes to a more sustainable and accountable government.

WHY DEVELOPING COUNTRIES HAVE DIFFICULTIES TO GENERATE TAXES

When it comes to generating taxes in developing countries, there are internal and external difficulties to be identified.[2] The focus of this policy case study will however be on the external factors having an impact on generating taxes in developing countries, as here the European Union (EU) can make a huge difference!

There are several reasons why external factors (factors from outside developing countries) make it difficult for developing countries to generate tax income. One reason is market liberalisation. The International Monetary Fund (IMF) and the World Bank have for instance introduced strict conditions on loans for developing countries. One of these conditions is the elimination of tariff barriers. Besides the IMF and the World Bank, the EU in terms of its trade agreements with developing countries, is forcing developing countries to liberalise great parts of their economies. For developing countries this means they can no longer generate taxes from tariffs or export taxes (please see our case studies on the EPAs and the Raw Materials Initiative). Along with market liberalisation comes Foreign Direct Investment (FDI), which of course does provide for important opportunities for developing countries. FDI does not only provide more inflow of foreign currency, but it also transfers skills and provides jobs for the local population. However, as many developing countries are very eager to attract FDI, they have started to compete with one another, in order to attract more investments. By introducing tax holidays (a period in time when tax rates are lower) or tax-free areas (a specific area in which taxes are lower) developing countries try to pursue Multinational Corporations (MNCs) to invest in their country. Yet these incentives only have a short term effect, because neighbouring countries are likely to reduce their tax rates as well, creating a race to the bottom between various developing countries. Besides, it has been estimated that the positive effect of FDI can in most situations not exceed the loss in tax revenue.[3]

The existence of tax havens and the practice of tax evasion are another reason why developing countries generate fewer taxes. Tax havens are territories with low tax rates, where transferred money is being protected from the scrutiny of foreign tax administrations. There are many different definitions used for a tax haven, making it difficult to deal with them on an international level. The definition of the OECD is most commonly referred to; tax havens are harmful preferential tax regimes that have no or only nominal tax rates, lack transparency, lack effective exchange of information and do not require activities to be substantial (i.e. transactions are allowed without the requirement of adding value).[4] In the light of this definition, there are 40 countries considered as tax havens. However these countries have all disappeared from the OECD's blacklist, because they promised to become more transparent and introduce exchange of information.[5] Other sources, like the Tax Justice Network, actually recognise over 70 tax havens world wide.[6] In the EU, Ireland, Belgium, Luxembourg and the Netherlands are the main tax havens. Other EU countries have offshore islands that are used for the same reasons, examples are Jersey and the Cayman Islands.[7] The practice of tax evasion is more complicated to describe and is explained in more detail below.

TAX EVASION BY MULTINATIONAL CORPORATIONS

Multinational Corporations are responsible for 64% of the illicit financial flows, and are thus taking advantage of the above explained situation in developing countries.[8] Because of the eagerness of many developing countries to receive FDI, MNCs have a strong negotiation position. The motives for a company to move towards a specific country are diverse and taxes are not always decisive. [9] However MNCs do put pressure on developing countries to reduce their tax rates and to give other fiscal advantages. By paying fewer taxes companies are maximising profit, which is their ultimate goal. MNCs are thus avoiding to pay taxes, but this is not illegal. Though one can argue it is morally incorrect.

Tax evasion however is illegal. This is when companies deliberately use illegal schemes to evade paying taxes at all in the country where the profit is being made. Large MNCs have many daughter branches all over the world, they sell their products from one to another, and manage to shift money from one place to the next. It is estimated that 60% of international trade occurs within MNCs.[10] In international trade, when selling to a daughter company the arms length principle should be applied, meaning that the price paid should be similar to the price on the world market. It is often unclear which daughter branches belong to which MNC. The same owners usually have many other companies, trust funds, foundations, and charities. This makes it difficult to see if a genuine transfer is being made, or money is just being shifted from one branch to another.

Obviously it is much more attractive to manipulate the price to a level which creates the highest fiscal advantage. This is known as transfer pricing. By paying an unrealistic price the money is transferred abroad. [11] Transfer pricing is very hard to trace back in the accounting figures of a company, but sometimes the crime is obvious. Like in 2004 when 400.000 tons of platinum were imported in the US from the Dominican Republic. The price paid was only just over three-thousands of the market price, while the Dominican government would have taxed the export for more than US$4.5 million if the normal price had been paid.[12] Transfer pricing is only one example of tax evasion, companies can also use false invoices to import or export goods at manipulated prices.

Once the money is out of the country it moves through different companies in various countries, until it reaches its final destination in a tax haven. According to the World Bank 60% of all international financial and trade transactions involve tax havens.[13] The money will not always be placed on a bank account in a tax haven. Because many countries offer tax incentives for FDI when it is entering the territory, it is attractive for companies to reinvest money that previously left the country illegally, which then also distorts the FDI figures.[14]

EUROPEAN TAXATION POLICY

The EU has implemented several policies and initiatives on taxation. These are described below and could be seen as a starting point for a common European taxation policy. It is however important to keep in mind that for now the system is based on minimal harmonisation.

In 1997 an EU Code of Conduct for Business Taxation was created. Although this was a voluntary initiative, it helps to identify harmful tax practices within the EU, and many of them have been abolished. The Primarolo Group was created as a monitor for the code, however the operation and functioning of this group is not transparent.[15] The EU Joint Transfer Pricing Forum was created in 2002.[16] This forum consists of experts from the Member States and the field of business. They work within the framework of the OECD transfer pricing guidelines, and the goal is to create non-legislative solutions to practical issues. The primary focus is on arbitrage in transfer pricing cases.[17]

The European Savings Directive (ESD) introduced in 2005, is another example of EU policy in taxation matters. The directive introduced an automatic exchange of information on interest paid by paying agents, like banks, on savings of citizens of European Member States. In order to be able to tax a person or company properly, governments need the necessary information. For many years people stalled their money in countries that did not exchange information with third countries. Due to the savings directive this is no longer possible for personal savings. Countries that historically had bank secrecy, like Luxembourg, have implemented the directive over several years. However, the directive has loopholes and it is still possible to avoid paying taxes.[18]

More financial markets transparency is a next step on which the EU wants to take action. The European Commission published the report Operation of

Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.[19] Transparency is key in the battle against tax evasion, and this initiative taken by the Commission to force European companies to disclose periodic financial data should be welcomed, although more radical action is needed.

Next to the Operation of Directive 2004/109/EC, in 2010 the Commission also published a "Communication on Tax and Development: Cooperating with developing counties on promoting good governance in tax matters". In this Communication, the EU shows willingness to support third countries in good governance on tax matters, meaning transparency, exchange of information and fair tax competition. The Commission proposes to create coherence between tax and development policies in order to assist developing countries in creating sustainable domestic tax systems to increase the tax-to-GDP-ratio; also the Commission gave its support to the establishment of a country-by-country reporting standard for MNCs, notably in the extractive industry.[20]

EUROPEAN DEVELOPMENT POLICY

Development stands high on the EU's political agenda. The central basis is laid down in article 208 of the Treaty on the Functioning of the EU (TFEU). Here it is stated that the main goal of the European development policy is to reduce and eventually eradicate poverty world wide. Furthermore, the EU has committed itself to the Millennium Development Goals (MDGs), which function as the political framework in which the EUs development policy is executed. MDG objective 8 aims to develop a global partnership for development, of which target A is to further develop an open, rule-based, predictable, non-discriminatory trading and financial system. Yet out of all the MDGs this one unfortunately receives least attention.

Policy Coherence for Development, both has a political (European Consensus on Development) and legal basis in the EU. In article 21 of the Treaty of the European Union (TEU) it is given a legal status, by stating that The Union shall ensure consistency between the different areas of its external action and between these and its other policies.[21] Moreover in article 208 on development policy it is also stated that The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries. However when the EU taxation policy and development policy are put next to one another, there is still little coherence.

In the framework of its development policy, the EU provides development aid to many developing countries in the form of assistance programmes. In 2009, the EU spent € 4.084.49 million on social infrastructure and services, this is 39% of the total budget for Official Development Assistance (ODA). Of this total € 905.96 million were spent on education and € 424.25 million was spent on health in developing countries.[22] These are sectors traditionally financed from tax revenues. To compare, it is estimated that in 2009 developing countries missed out on € 569.268.81 million through transfer pricing alone.[23] This clearly shows that on one hand the EU is supporting developing countries by its development policy and aid programmes but on the other hand the EU and in particular its Member States are enabling corporations to escape their tax responsibilities in developing countries. A clear case of incoherence!

MORE FAIR POLICIES!

European policy is failing to truly address the problem of illicit capital flight and tax evasion. First of all, there is still a lack of transparency within the EU. In the Transparency Directive the Commission fails to mention some suggested initiatives that would make the financial sector truly transparent for both European and third countries, like the country-by-country reporting. Country by-country reporting would force companies to disclose what taxes are paid per country.[24] This would oblige companies to disclose which taxes should be paid in which country. If a MNC is doing honest business, this will not have any effect on the company, since the taxes are already paid. Yet at the moment this is not mandatory, and therefore tax evasion cannot be traced back in the companies accounting figures. If this was to be introduced, both developing countries as well as European countries, would be able to tax the companies for what they are required to pay in their territories. It would also give insight in what money is transferred to tax havens.[25] The Commission has recently held a public consultation on country-by-country reporting and is expected to publish new communications on this and the Transparency Directive in the second half of 2011.[26] This would be the perfect opportunity to present new policy initiatives to tackle the issues raised above.

Secondly, the Member States are not forced to expand the current system of automatic exchange of information, let alone share information with third countries. The European Savings Directive (ESD) has many loopholes which make it easy for citizens to transfer their money to trusts or companies. Decisions on tax matters within the EU have to be taken by consensus, and the Member States whose main businesses often depends on bank secrecy are against possible improvements, therefore the current discussion on improving the directive is stuck. The fact that there are Member States depending on bank secrecy indicates that there are still tax havens on European territories. There have not been any policy initiatives on a European level to dismantle the tax havens, moreover most Member States are denying the allegations of being or supporting tax havens.

It has been proven by the US that it is possible to introduce more fair tax policies. In July 2010 the Dodd Frank Wall Street Reform and Consumer

Protection Act was introduced. Next to reforming Wall Street, this act also included clauses on the extractive industries and Congo Conflict Minerals. Companies listed in the US and active in the extractive industries are now obliged to publicly disclose how much taxes they (or subsidiaries and partners) paid to the US government and foreign governments on a country-by-country and a project-by-project basis. Some EU based companies active in the extractive sector are listed in the US and will therefore be subject to this Act. If the minerals were extracted in the Democratic Republic of Congo (DRC), the company must also disclose the measures taken to introduce due diligence on the origins and chain of custody of the used raw materials. To conclude, the US government introduced country-by-country reporting for the extractive industries. In addition, if conflict minerals were used it will be traceable for governments and consumers.[27] This US bill represents an important step in the right direction and is certainly an example to be followed.

CONCLUSION

Tax evasion is a large threat to development. Raising taxes is the most stable and sustainable way for a government to receive income, yet compared to developed countries, developing countries are raising significantly fewer taxes. In addition, up to ten times more money is leaving developing countries than is received in terms of aid. This problem should be addressed in order to give development a chance. Developing countries have to deal with their large informal sector, a weak internal taxation system, as well as the consequences of the liberalisation of the world market, the competition for FDI, and the existence of tax havens. These all set the stage in which MNCs have the possibility to evade taxes. The EU claims that solutions for these problems should be taken on a global level. However not acting is no option for the EU when the impact on development is this large. More coherence between European tax and development policy is necessary in order to make development work.

WHAT NEEDS TO BE DONE?

- The European Savings Directive needs to be extended by the European Member States. The automatic exchange of information should include companies and trust funds as well. This creates the opportunity to get information on MNCs as well as individuals, and it would make it more difficult to evade taxes.
- The European Commission should be mandated to impose strict penalties on Member States which do not comply with good governance in tax matters, like the Member States that still support tax havens on their territories.
- The European Union, on behalf of the Member States should oblige country-by-country reporting for MNCs enlisted in the EU.
- The European Union should oblige MNCs to disclose the beneficial ownership, which would create transparency on transfers between companies, and increase the chance of ending transfer pricing.[28]

January 2011

Notes

[1] Dev Kar and Karly Curcio, Illicit Financial Flows from Developing Countries: 2000-2009. Update with a Focus on Asia, Global Finance Integrity (http://www.gfip.org/storage/gfip/documents/reports/IFF2010/gfi_iff_update_report-web.pdf), p. 29.

[2] For a recent researched example of this, click here to go to Action Aids report on Sabmiller. This brewery is avoiding to pay taxes in Ghana.

[3] Thijs Kerckhoffs, International barriers to raising tax revenues in: Research papers supporting developing countries ability to raise tax revenues, International barriers to raising tax revenues, p. 12.

[4] Tax haven criteria, Organisation for Economic Co-operation and Development (OECD) (http://www.oecd.org/document/23/0,3343,en_2649_33745_30575447_1_1_1_1,00.html).

[5] Identifying tax havens and offshore finance centres, Tax justice network (http://www.taxjustice.net/cms/upload/pdf/Identifying_Tax_Havens_Jul_07.pdf).

[6] Idem.

[7] Ibid.

[8] International barriers to raising tax revenues, p. 14.

[9] Transfer pricing, Tax Justice Network (http://www.taxjustice.net/cms/front_content.php?idcat=139).

[10] International barriers to raising tax revenues, p. 16.

[11] A rich seam. Who benefits from the rising commodity prices, Christian aid (http://www.christianaid.org.uk/Images/a_rich_seam.pdf), p. 10.

[12] Magnitudes: dirty money, lost taxes and offshore, Tax Justice Network (http://www.taxjustice.net/cms/front_content.php?idcat=103).

[13] International barriers to raising tax revenues, p. 16-17.

[14] Ibidem, p 13.

[15] International barriers to raising tax revenues, p. 24.

[16] Ibid.

[17] A European agenda to fight capital flight, Eurodad (2008) p. 1.

[18] COM(2010)243.

[19] COM(2010)163.

[20] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0001:01:EN:HTML).

[21] Annual report 2010 on the European Unions development and external assistance policies and their implementation in 2009 (http://ec.europa.eu/europeaid/multimedia/publications/documents/annual-reports/europeaid_annual_report_2010_en.pdf).

[22] Kar and Curcio, Illicit Financial Flows from Developing Countries: 2000-2009, p. 11.

[23] Country-by-country reporting: how to make multinational companies more transparent, Tax justice briefing (http://www.taxjustice.net/cms/upload/pdf/Country-by-country_reporting_-_080322.pdf).

[24] Consultation on Financial Reporting on a Country-by-Country Basis by Multinational Companies (http://ec.europa.eu/internal_market/consultations/2010/financial-reporting_en.htm).

[25] Brief summary on the Dodd-Frank Wall Street reform and consumer protection act, (http://banking.senate.gov/public/_files/070110_Dodd_Frank_Wall_Street_Reform_comprehensive_summary_Final.pdf).

[26] A call by global civil society on France as the host of G20 in 2011, (http://xa.yimg.com/kq/groups/3546395/1666751075/name/Tax+havens+and+development+-+CSO+call+on+France+for+G20+2011.doc) p. 2.

BIOFUEL AND FAIR ENERGY

PHOTO: UNITED NATIONS PHOTO (MONGOLIA)

The analysis of trends related to alternative fuels and vehicles show that well-protected biofuels producers in the EU and the US received massive investments from the private sector, and production based on food crops has increased rapidly. As a result, food prices have risen, directly impacting urban populations and food-importing countries in the South; questions are being asked about the role biofuels is playing.

The growing need for biofuel is changing the business of agriculture, especially in developing countries, where there is also a push to grow soybeans and corn for use in biofuels. Developing countries have to produce biofuels with a very low price, and often at the expense of the environment. Critics suggest the resulting changes are anything but positive, pointing to stories of small farmers being pushed from their land to make way for big biofuels companies and chemical spraying on crops that is harming citizens. However, this policy is incoherent with EU policies to eradicate poverty and to help enhance sustainable economy in developing countries.

BACKGROUND

There are large uncertainties in estimating the future demand for petroleum fuels as well as for that of biofuels. Projected demand for biofuels is based on projections for oil demand for the transportation sector for 2030, an assumed 10% mass rate of substitution of the petroleum by biofuels, and a diesel to gasoline ratio of 45.5% to 54.5%.

There is uncertainty regarding sustainability of biofuels production in the face of changing climates. According to the projections made by Intergovernmental Panel on Climate Chence (IPCC-2007), agricultural production and food security are under threat due to climate change and variability, and this threat also holds for annual or perennial biofuels crops to be grown to meet the biofuels demands. Thus, there is a need for an improved understanding of all these issues to assess the potential sustainable biofuels production and its environmental and socio-economic implications in developing countries.

There have been studies that prove the many benefits of substituting fossil fuels (oil, etc) with biofuels - converting biomass into liquid fuels, such as biodiesel and ethanol, for transportation. In its simplest sense, biofuels are a perfect replacement for oil products. This is because biofuels are easily renewable and very inexpensive to produce.

Using biofuels can also help the economy (especially for countries who aren't oil-rich), as it reduces the dependency on imported, foreign oils. This means that a large part of the national budget can be saved by relying on biofuels. It can create numerous jobs.

Biofuels are biodegradable which means they are derived from organic materials and they are naturally renewable. Moreover, these biofuels emit nontoxic and cleaner emissions in comparison to traditional fuels. All types of biofuels are carbon neutral. This means that the amount of carbon dioxide created by the burning of biofuels is equal to the carbon dioxide (CO_2) absorption capacity of the plants. Hence, no extra CO_2 remains in the atmosphere.

Although many researches show that biofuels are much more environment-friendly than any other known form of fuel and cause much less greenhouse gas (GHG) emissions in comparison to the conventional types of transport fuels and also do not promote global warming, since the carbon they emit is taken back to the environment, a new research has revealed that the burning of materials to produce biofuels emits enough nitrous oxide to create a greenhouse effect.

However, major concerns of wide scale biofuel production are the increased need of growing crops to meet the demand and that biofuels uses more energy than they can produce. This leads to some arguments, since it might require extensive land that involve forests, wild habitats and agricultural lands. The environmentalists say that if the use of biofuels is promoted, than more and more land will be used to produce crops to make biofuels. This will result in a loss of habitat for various species of animals and plants.

Some 300 to 500 million farmers in the tropics rely on shifting cultivation and practice a type of 'slash-and-burn' farming. This land-use strategy allows them to grow crops for a few years, after which they have to move on because the nutrient-poor, acidic tropical soils rapidly become depleted. All the while, they contribute to deforestation, out of necessity. This land-use system is a key factor in rural poverty.

A concern that seems valid is that with the increased use of biofuels, farmers may start to grow crops meant for biofuels production rather than the ones that can be used as food. A reduced food production can increase the prices and cause the inflation to rise. The problem is expected to be at its worst in developing countries, where millions of people suffer from the increase in the food prices.

US POLICIES ON BIOFUELS

Alternative fuel and fuel economy legislation in US dates back to the Clean Air Act of 1970 (as amended in 1990), which created initiatives to reduce mobile sources of pollutants. In 1988, federal laws established vehicle manufacturer incentives in the form of Corporate Average Fuel Economy (CAFE) credits (the Alternative Motor Fuels Act). The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21) of 1998 laid the foundation for highway construction and safety programs.

The Energy Independence and Security Act of 2007 introduced provisions to increase the supply of renewable fuel sources and raise CAFE standards to reach 35 miles per gallon by 2020. The Emergency Economic Stabilization Act enacted the Energy Improvement and Extension Act of 2008, and the American Recovery and Reinvestment Act (ARRA) of 2009 appropriated nearly $800 billion towards the creation of jobs, economic growth, tax relief, improvements in education and healthcare, infrastructure modernisation, and investments in energy independence and renewable energy technologies. ARRA supports a variety of alternative fuel and advanced vehicle technologies through grant programs, tax credits, research and development, fleet funding, and other measures for Clean Cities portfolio areas (alternative fuels, advanced vehicles, idle reduction, and fuel economy).

On January 2010, US Department of Energy announced nearly $80 million investment for advanced biofuels research and fueling infrastructure that should help support the development of a clean and sustainable transportation sector. Two biofuels consortia research algae-based and other advanced biofuels are part of the Department's continued effort to spur the creation of the domestic bio-industry while creating jobs.

Two cross-functional groups will seek to break down critical barriers to the commercialisation of algae-based and other advanced biofuels such as green aviation fuels, diesel, and gasoline that can be transported and sold using today's existing fueling infrastructure. The selected projects consist of leading scientists and engineers from universities, private industry, and government, and will facilitate sharing expertise and technologies.

On July 2011, the US Department of Energy, Office of Energy Efficiency and Renewable Energy's Biomass Programme hosted its fourth annual conference "Biomass 2011: Replace the Whole Barrel, Supply the Whole Market". This conference focued on topics surrounding the use of biomass as a replacement for petroleum to supply the energy, products, and power markets. The theme of Biomass 2011 explored the new horizons of bioenergy technologies and deployment strategies, business practices, policies, and partnerships that will help sustainably transform the energy landscape.

The conference provided a framework to facilitate new collaborations between existing bioindustry and energy companies, technology providers, financers, federal agencies, and academia, while highlighting the diverse applications of bioenergy and generating the sustained momentum necessary to achieve bioenergy development goals.

EU POLICIES ON BIOFUELS

On June 2010, the European Commission set up a system for certifying sustainable biofuels. The Commission encouraged industry, governments and NGOs to set up certification schemes for all types of biofuels, including those imported into the EU. It laid down what the schemes must do to be recognised by the Commission. This will help implement the EU's requirements that biofuels must deliver substantial reductions in greenhouse gas emissions, and should not come from forests, wetlands and nature protection areas. The rules for certification schemes are part of a set of guidelines explaining how the Renewable Energy Directive should be implemented.

Günther Oettinger, EU Commissioner responsible for Energy, stated that: "In the years to come, biofuels are the main alternative to petrol and diesel used in transport, which produces more than 20% of the greenhouse gas emissions in the European Union. We have to ensure that the

biofuels used are also sustainable. Our certification scheme is the most stringent in the world and will make sure that our biofuels meet the highest environmental standards. It will have positive effects also on other regions as it covers imported biofuels."

The package adopted consists of two Communications and a Decision which should help businesses and Member States to implement the Renewable Energy Directive. They focus especially on the sustainability criteria for biofuels and what is to be done in order to ensure that only sustainable biofuels are used.

On July 2010, the European Commission launched a public consulation on Indirect Land Use Change and Biofuels. Indirect land use change is a subject of great complexity. The Commission is therefore consulting on a wide basis; seeking advice on both the scale and characteristics of the problem, as well as, if the scale of the problem is significant enough, how it should be addressed. The Commission has issued also several studies on the topic together with the consultation document.

On November 2010, the European Commission launched a major investment programme (NER300) for innovative low-carbon technologies, including bioenergy. It is the first call for proposals for the world's largest programme of investment in low carbon and renewable energy demonstration projects. The initiative, known as NER300, will provide substantial financial support for at least 8 projects involving carbon capture and storage (CCS) technologies and at least 34 projects involving innovative renewable energy technologies.

The aim is to drive low carbon economic development in Europe, creating new 'green' jobs and contributing to the achievement of the EU's ambitious climate change goals. The European Investment Bank (EIB) is collaborating with the Commission in the implementation of the programme.

Using revenues from selling of CO2 allowances, around €4.5 billion will be available for innovative renewable energy technologies and CCS. With project sponsors and Member States contributions this will sum up to €9 billion. This can give a boost for keeping EU in the frontrunner position when it comes to climate friendly technologies. Europe has the know-how, the ability and the ambition to lead the world in developing the technologies required to tackle climate change.

The NER300 initiative will act as a catalyst for the demonstration of new low carbon technologies on a commercial scale. These and other green technologies are an increasingly important source of future economic growth and jobs. They will also help us meet our ambitious climate targets for 2020 and beyond."

NER300 funding can be combined with financing from other EU instruments, including the Structural and Cohesion Funds and the European Energy Programme for Recovery (EEPR). Under the NER300 decision, the EIB is responsible for selling the 300 million permits and managing and disbursing the proceeds. While details, including the starting date of the sales, are not fixed yet, it is expected that all NER300 permits will be sold before the start of the third trading period of the EU ETS in January 2013.

BIOFUELS AND DEVELOPING COUNTRIES

Biofuels have been supported in the EU and US as a replacement for oil, with the result of displacing food production and pushing up food prices. Many biofuels and carbon offsetting schemes deprive people of land, water and food and this is incoherent with efforts the EU has taken to eradicate poverty.

Opportunities for Biofuels production in developing countries are being fuelled by the apparent relative availability of land to grow feedstock crops; however, a biofuels boom in these countries raises concerns about potential increases in social and environmental pressures. Possible impacts include increases in food prices and reduced food security in low income societies and environmental consequences resulting from land-use and land-cover change (e.g. greenhouse gas emissions and loss of biodiversity). These impacts depend on the premise that biofuels production can be sustained at a reasonable level, provided that transparent and fair market prices allow an appropriate investment.

Recent years have seen various "solutions" proposed to the problems of climate change and new fuels. Unfortunately, many of them have impacted negatively on the poor, particularly women and indigenous people, whilst allowing the current economic system to continue. The Food and Agriculture Organisation has found that women in particular are adversely affected by large-scale biofuels production, because of the competition for marginal land, which is often used by women for household food production; high water consumption of biofuels crops, which compete directly with household needs and increase women's workload; and exploitation of female biofuels plantation workers. Other projects are designed to offset the emissions produced by consumers or businesses in the developed world, by reducing or sequestering carbon emissions. Initiatives such as forestry projects that enclose previously communal land tend to affect women most, because they are often dependent on natural resources for their livelihoods.

About one billion people in the world are hungry or malnourished, with over half of them living in rural areas in South Asia and Sub-Saharan Africa and dependent on agriculture for food and livelihoods. In South Asia there is sufficient per capita food production to feed the population but unequal distribution of food, resulting in pockets of hungry people; whereas in Sub-Saharan Africa there is insufficient per capita food production to feed the population as a whole. There is potential to increase yields in both areas. South Asia realizes about 75% of the global average yields of major food crops, while Sub-Saharan Africa realises less than 30%.

Countries are following a decision process in order to fit the biofuels industry within their development strategies and available resources (physical, monetary and institutional). First, countries define their overall objectives, as well as the policies needed to support those goals, which may be guided by the potential benefits identified.

In the other hand, there are voices pointing out that the development of biofuels will bring direct opportunities to developing countries because their production will create many local jobs in the value chain - from growing raw materials to their manufacture. Furthermore, the local production of biofuels in developing countries will help to decrease the dependency on costly fossil fuel imports.

Local production of biofuels for internal consumption could have substantial economic benefit in terms of foreign exchange savings. Brazil and most Sub-Saharan countries also view biofuels as potential options for creating rural employment.

EU and US are partly driving and defining biofuels programmes in the developing world, particularly Africa. The biofuel programmes in many countries such as Ethiopia, Kenya, Madagascar, Mozambique, and Tanzania are in part export-driven and prompted by investment from external agencies such as European companies (BP in Ethiopia, D1, Sun Biofuels, Sekab, to name a few). Both developed and developing countries have already set targets for substituting or supplementing diesel and gasoline by biofuels, with proportions ranging from 5 to 20% to be met at various times within the period 2010-2030. Both developing and developed countries are in the process of formulating biofuels policies to meet these targets, along with associated incentives, regulations and standards.

It is likely that many of these biofuels programmes and projects are being launched without considering and enacting long-term policies. Yet, these policies will shape biofuels programmes and the associated impacts (e.g. land use change, employment, land tenure, ecosystem and human health, air quality) in the years and decades to come.

BIOFUELS' PERSPECTIVES

Energy supplies need to be secure and sustainable as well as affordable. To reduce the reliance on fossil fuel, conservation is still the primary strategy. There is no instant weaning on conventional petroleum diesel. It is quite impossible to totally replace it, but instead the consumption must be decreased. Other sources of energy such as solar, wind, etc. are still needed. But this does not mean that biofuels have no future. As a matter of fact, they have a very promising potential. As an alternative to this "traditional" diesel or gasoline fuel, it is expected to yield significant energy security and environmental advantage to its consumers.

There is a greater variety of highly productive biofuels feedstocks that can be grown in tropical developing countries, compared to those that can be grown in temperate, developed countries. For ethanol, these include sugarcane, a variety of starchy crops such as cassava, and grain crops such as maize, and sweet sorghum. A wide variety of oilseed crops, traditionally viewed as foodstuffs, (e.g. groundnuts, sesame and soybean) and several cooking oil production crops (e.g. cotton seed, oil palm, and sunflower) can be used for biodiesel production. In many areas where food production should be given a priority over biofuels production to meet national food security requirements, inedible crops and a variety of non-food crops are already being used or explored for their biofuels potential.

Scientists note several potential perennial cellulosic and nonedible oil crops including trees and shrubs such as jatropha, several palms and indigenous Amazonian trees. The potential biomass/oil yields and quality of many trees and non-edible oil crops from the woodlands and arid lands of Africa are beginning to be investigated through various projects (e.g. the World Agroforesty Centre in collaboration with a European Commission INCO project "Competence Platform on Energy Crop and Agroforestry Systems for Arid and Semi-arid Ecosystems – Africa). The trees Pappea capensis and Ximenia caffra are potential oilseed sources and indigenous to Southern Africa.

The mission of the European Biofuels Technology Platform is to contribute to the development of cost-competitive world-class biofuels value chains, to the creation of a healthy biofuels industry, and to accelerate the sustainable deployment of biofuels in the EU through a process of guidance, prioritisation and promotion of research, technology development and demonstration. Although biomass is a renewable energy source, the development of biofuels raises important issues of Food vs Fuel, Land Availability and Environmental Impact, Indirect Effects and a need for measures (e.g. certification, GHG savings standards and cultivation criteria) to be put in place to ensure sustainability.

The sustainability of biofuels is covered by the EC Joint Research Centre (JRC) project "Quality and Performance of Biofuels" (BioF) and projects such as BioGrace. The EU funded project BioGrace aims to harmonise calculations of biofuel greenhouse gas emissions and thus supports the implementation of the Renewable Energy Directive (RED, 2009/28/EC)) and Fuel Quality Directive (FQD, 2009/30EC) into national laws.

BioGrace holds a series of public workshops on biofuels GHG calculations focusing on all EU Member States.

CONCLUSION

The process of biofuels production has been termed as non-sustainable. Most of the biofuels, when produced, tend to create a negative effect on food production. Also, no method of biofuels production has been discovered that does not cause any environmental problems.

For biomass fuels, the most common feedstocks currently used today are corn grain (for ethanol) and soybeans (for biodiesel). In the near future, agricultural residues such as corn stover (the stalks, leaves, and husks of the plant) and wheat straw will also be used. Long-term plans include growing and using dedicated energy crops, such as fast-growing trees and grasses, and algae. These feedstocks can grow sustainably on land that will not support intensive food crops.

Biodiesel production from a range of crops could be grown cooperatively by smallholder farmers. The choice of feedstock must consider and assure food security, environmental protection, social equity and national/rural development. This choice must be informed by market options: local, national, international or a combination of any of these. When a decision is made that the biofuels industry is appropriate, implementation mechanisms must be put in place to address investments in inter-sectoral research and technology access, provision of incentives at all value-chain stages and policy coherence over time.

The recent experiences of high fuel prices and the mismatch between global demand and supply rises optimism about the potential of biofuels. Export opportunities (feedstock and finished products) for many of the developing countries with comparative advantages of available land for low cost feedstock production now appear real.

However, some regions will struggle with addressing biophysical and infrastructure hurdles mentioned in this chapter (e.g. lack of roads, low soil fertility, access to water, etc.) to make the ventures profitable. It is also important to emphasise that the success of biofuels exports from developing countries to developed countries will depend on the future policies of countries/regions such as the US and EU, which subsidise domestic, but inefficient, biofuels agro-industries resulting in trade barriers.

WHAT NEEDS TO BE DONE?

- The EU should stimulate productive second-generation biofuels.
- To research about the potential of non-food crops, although further reseach on their conversion to biofuels is needed.
- An innovative new approach could turn this situation around. It is based on biochar - a carbon-rich product obtained from the pyrolysis of biomass.
- To develop technologies, including hydrogen, and an enhanced geothermal power generating system using geothermal fluids stored in submarine volcanic rocks.
- To use renewable energy - biomass power, geothermal power, solar power, wind energy. Renewable energy technologies can help contribute to a clean and secure energy future for nations and the world.

March 2011

References

- European Biofuels Technology Platform http://www.biofuelstp.eu/ and http://www.biofuelstp.eu/news.html#100610
- NER 300 call http://ec.europa.eu/clima/funding/ner300/index_en.htm http://ec.europa.eu/clima/funding/ner300/docs/presentation_en.pdf
- Biomass 2011: Replace the Whole Barrel, Supply the Whole Market. The New Horizons of Bioenergy http://www1.eere.energy.gov/biomass/biomass_2011.html
- Biofuels: Pros and cons http://www.biofuelswatch.com/biofuels-pros-and-cons/ Biofuel Guide - Introduction to Ethanol and Biodiesel http://biofuelguide.net/
- EuropaBio Fact Sheet. Biofuels and developing countries http://www.worldbiofuelsmarkets.com/reports/Developing_countries_March08.pdf
- Biofuels in developing countries. Biofuels: Environmental Consequences and Implications of Changing Land Use http://www.worldbiofuelsmarkets.com/reports/Biofuels_SCOPE_Diofuels_for%20_DevelopingCountries.pdf
- Biofuels in developing countries: from idealism, to realism, and back http://www.globalsubsidies.org/en/subsidy-watch/commentary/biofuels-developing-countries-idealism-realism-and-back
- Food, biofuels and developing countries http://www.theglobeandmail.com/news/opinions/article682150.ece
- Climate change impacts www.wen.org.uk
- European Commission INCO project “Competence Platform on Energy Crop and Agroforestry Systems for Arid and Semi-arid Ecosystems – Africa www.compete-bioafrica.net

CLIMATE CHANGE

PHOTO: EDUARDO RAMOS (GUINEA BISSAU)

It is an old fear in industrialised countries that aggressive action on climate change could lead to local economic disadvantages. Environmentalist, politicians and academics have long been calling for the establishment of a global emissions trade when ideally poorer countries would automatically make money, and rich countries would at the same time have a financial incentive to reduce their Co2 emissions. However, such a system would only work if all states participated and industrialised countries for years have feared that just won't happen. People are longing for a fair climate agreement, but the EU, the US and China still are frustrating this process.

BACKGROUND

The European Commission has set out a strategy to reinvigorate global action and proposed that the EU swiftly begins implementing December's 2009 Copenhagen Accord, in particular 'fast start' financial assistance to developing countries. In parallel the EU should continue to press for a robust and legally binding global agreement that involves all countries in real climate action. This will require integrating the Copenhagen Accord into the UN negotiations and addressing the weaknesses in the Kyoto Protocol[1], which is an international agreement linked to the United Nations Framework Convention on Climate Change (UNFCCC). The major feature of the Kyoto Protocol is that it sets binding targets for 37 industrialised countries and the European community for reducing greenhouse gas (GHG) emissions .These amount to an average of 5% against 1990 levels over the five-year period 2008-2012.

Active outreach by the EU will be key to promoting support for the UN negotiations and the European Commission will undertake this effort in close contact with the European Council and with the support of the European Parliament to propose a roadmap for negotiating process.

THE COPENHAGEN ACCORD

The Copenhagen Accord[2], a non-binding political statement introduced at the 11th hour of the Copenhagen summit in December 2009, has been praised by some for garnering stronger commitments from major developing nations, which could in turn deliver a binding global climate treaty. Yet its formulation has also threatened to destabilise the nearly 20-year old process developed under the UNFCCC, the leading international body for climate change negotiations.

The United States, Brazil, South Africa, India and China formulated the Accord with the understanding that the text would later be adopted by all 193 nations. But many participants considered this outcome to be undemocratic and a departure from a UN process meant to offer equal voice to every nation. The political guidance in the Copenhagen Accord needs to be integrated into the UN negotiating texts that contain the basis of the future global climate agreement. EU is ready but the world might not be, and therefore EU approach has to be step-wise.

The 140 nations represent almost 75% of the 193 countries that are parties to the UN climate change convention and, accord supporters like to point out, are responsible for well over 80% of current global greenhouse gas emissions.

Large emerging economies like China and India could blow off climate protection and give their businesses competitive advantages in the global market. The failure to reach an international climate change agreement in Copenhagen on December 2009 has done little to dampen such worries.

Since Copenhagen, there has been confusion over how a legally binding treaty to reduce greenhouse gas emissions can be achieved. All observers are now clear that no such deal will be signed. Good news are that in 2010 China and India wrote to the UN's climate secretariat and agreed to be "listed" as a parties to the Copenhagen Accord.

At the heart of the disagreement is whether a new global treaty, like the existing Kyoto protocol, must be agreed unanimously by all UNFCCC members and be a continuation of Kyoto, which enshrines bindings carbon cuts on industrialised nations but not on developing ones.

THE CANCUN AGREEMENTS

The United Nations Climate Change Conference in Cancun, Mexico (29 November - 10 December 2010) resulted in the adoption of the Cancun Agreements[3]. These are a set of decisions by the international community to address the long-term challenge of climate change collectively and comprehensively over time and to take concrete action now to speed up the global response. The agreements represent key steps forward in capturing plans to reduce greenhouse gas emissions and to help developing nations protect themselves from climate impacts and build their own sustainable futures. The finance package was a deft compromise on short and long-term finance, transparency of financial contributions. The overall package will create a solid foundation to build progress to address climate change.

The conference established the Green Climate Fund (in Copenhagen it had been called the Copenhagen Green Climate Fund). The elements of the finance deal struck a balance between the need to quickly establish a major fund to move multi-lateral resources efficiently to the developing world, and the need to provide a robust structure that would ensure funds are governed properly.

The fund will serve a critical role as a mechanism to deliver support for urgent climate actions like reducing emissions through protecting forests, and shifting to greener energy technologies. The fund will also deliver resources to the newly established technology centers which will over research, scientific exchange and technical support for countries looking to improve efficiency and reduce emissions from sectors like energy production, transportation, and buildings.

Many countries during the Cancun Conference highlighted the value of the fund to deliver needed resources on scaled up level for vital adaptation activities. Developing countries are rightly concerned that they have to act fast to adopt new approaches to agricultural, land and water management, education and training, communications, and health systems.

In Kenya for example, a country where many people live in rural areas, changing precipitation patterns are already having a damaging effect on crop production and food supplies. Kenya needs support for better precipitation observation systems, improved water efficiency for agriculture and tools to shift to new crops or new areas if necessary. In their remarks on the agreement struck, Kenya noted that though the deal was not perfect – the new fund was critical to their ability to adapt to the impacts of climate change and therefore they supported the package.[4]

193 countries gathered in Cancun made progress on emissions reductions, greater transparency, forest preservation and the creation of the green fund to help mobilise much needed investments throughout the world. And though no party was completely satisfied, the progress in Cancun will allow critical actions to reduce emissions, and protect people from the catastrophic impacts of climate change.

Developing countries had advocated throughout the year leading up to the meeting of the Cancun Climate Talks for a process to ensure that the delivery of climate finance would be transparent and there would be a system to monitor and verify the promised funds. The final agreement included a new registry to record developing country efforts to reduce emissions and to match those actions finance and technical support. The agreement provides for tracking finance in a common reporting format – something that will enable civil society and recipients of funds to better hold developed nations to account for their commitments.

CLIMATE CHANGE AND THE RESPONSIBILITY OF THE EU

People living in developing countries often depend heavily on their natural environment, and will be hard hit by the effects of climate change, for example: lower agricultural yields, growing water stress, flooding of low-lying lands, spread of infectious diseases to new, warmer areas. The EU helps developing countries find ways to adapt to these changes and reduce their vulnerability.

The EU action plan on climate change and development ensures climate change is incorporated into all aspects of EU development policy. It will help developing countries implement the UNFCCC and the Kyoto Protocol, and support more research into tackling climate change. Its four priorities are: raising the political profile of climate change, support for adaptation in developing countries, support for mitigation and sustainable development paths, and developing administrative capacity in vulnerable countries.

The action plan is funded through the European Commission's geographical programs for countries and regions, and its program for the environment and sustainable management of natural resources.[5]

The UNFCCC refers to the need for the international community to support and further develop climate research and systematic observation systems, taking into account the concerns and needs of developing countries.

Action Plans were subsequently developed and are now being implemented for developing country regions including Eastern and Southern Africa, Western and Central Africa, East and Southeast Asia, Central Asia, South and Southwest Asia, South America, Central America and the Caribbean, and the Pacific Islands.

The plans highlight the need for a better knowledge base, better forecasting and climate services and a need to improve observations at all levels to enhance countries' ability to adapt. They emphasis that effective adaptation planning requires improved observations; improved regional, national and global data, as well as denser networks; the recovery of historical data; building of support among the user communities that have a demand for climate information; and promoting greater collaboration between the providers and users of climate information.[6]

Climate change impacts in developing countries[7]

Environmental Impacts	Socio-economic resources and sectors affected
Changes in rainfall patterns	Water resources
Increased frequency and severity of: Floods Droughts Storms Heat waves	Agriculture and forestry Food security Human health Infrastructure (e.g. transport) Settlements: displacement of inhabitants and loss of livelihood
Changes in growing seasons and regions	Coastal management
Changes in water quality and quantity	Industry and energy
Sea level rise	Disaster response and recovery plans
Glacial melt	

EUROPEAN CLIMATE POLICY

A variety of climate-related initiatives have been implemented at EU and national levels since the early 1990s. The European Commission launched the European Climate Change Program (ECCP) in 2000, working with industry, environmental organisations and other stakeholders to identify cost-effective measures to reduce emissions.

A cornerstone of EU climate change policies is the EU's Emissions Trading Scheme (ETS) launched in 2005. EU governments have set limits on how much CO2 some 10,500 power plants and energy-intensive factories are allowed to emit each year, accounting for almost half of the EU's total CO2 emissions. The ETS gives a financial incentive to reduce emissions by establishing a market-based trading system. Plants that emit less CO2 than their limits can sell their unused emission quotas to other companies that have emissions higher than their allowances. Companies that exceed their emission limits and do not cover them with emission rights bought from others have to pay hefty penalties. The ETS makes sure that emissions are cut where it is cheapest, and lowers the overall costs of reducing emissions. 70% of the energy used by households in the EU is spent on heating homes and another 14% on heating water.

Other ECCP measures include improving the fuel efficiency of cars and the energy efficiency of buildings (better insulation can reduce heating costs by 90%); increasing the use of renewable energy sources, such as wind, sun, tidal power, biomass (organic material such as wood, mill residues, plants or animal droppings) and geothermal power (heat from hot springs or volcanoes); and reducing methane emissions from landfills.

A second phase of the ECCP was launched in October 2005. The focus is on strengthening the EU ETS by tackling emissions from aviation and road transport, developing carbon capture and storage technology and funding measures to adapt to climate change. Proposals to include airlines in the EU ETS and reduce CO2 emissions from new cars have been agreed.

European leaders adopted a Climate and Energy Package in 2008, with a series of proposals for concrete actions and a set of ambitious targets. The package strengthens the ETS to cover all major industrial emitters and introduces more auctioning. In sectors not covered by the ETS – such as buildings, transport, agriculture and waste – emissions are to be reduced emissions by 10% below 2005 levels by 2020. Other measures boost carbon capture and storage technologies, cut CO2 from cars and will introduce tighter fuel quality standards.

Experts, however, warn strongly against eco-punitive tariffs. Measured by the carbon dioxide emissions incurred in the production of goods, China is undisputedly the world's largest emitter of CO2. Punitive duties would hardly change that. An adjustment of tariffs would likely never be high enough to substantially alter the demand in the West for goods from China and China will remain the workbench of the world. Punitive tariffs would therefore have almost no environmental impact, but would come with enormous risks.

European Parliament resolution approved in November 2010 states that setting a target to reduce CO2 emissions by 30% by 2020 (based on 1990 levels) would be in the interest of the future economic growth of the European Union. The EU also highlights forest protection and climate aid commitments to developing countries. Forests are critical to climate because of their capacity to absorb carbon dioxide. Members of European Parliament want strong EU support for "REDD+", an initiative designed to reduce emissions from deforestation and forest degradation, which account for 20% of the global total. Tighter definitions of forests are needed to ensure funding is not sidetracked to commercial plantations.

WHAT NEEDS TO BE DONE?

The focus in this case study is around three main elements: the worldwide emission targets that has to be set, the question of financing climate change in developing countries and the western responsibility in this case and the development of an international carbon market.

International negotiations are under way to draw up a United Nations agreement to govern global action on climate change after 2012, when the first commitment period of the Kyoto Protocol expires. The European Union has taken a leading role in these negotiations and wants them to result as soon as possible in a comprehensive, ambitious, fair and science-based global agreement that is legally binding

The Copenhagen Accord and the Cancun Agreements are a step towards the goal of a legally binding global climate agreement, which should take effect in 2013 at the end of the Kyoto Protocol's first commitment period. The Accord endorses the EU's core objective of keeping global warming below 2ºC above the pre-industrial temperature in order to prevent the worst impacts of climate change. To achieve that it is necessary:

- to date industrialised and developing countries representing more than 80% of global greenhouse gases emissions inscribe their emission targets or actions in the Copenhagen Accord. This shows the determination of a majority of nations to step up their action against climate change;
- to implement the Copenhagen Accord in EU countries and provide €2.4 billion in 'fast start' financial assistance to developing countries annually in 2010-2012, essential both to the EU's credibility and to enhancing recipient countries' capacities to address climate change;
- to continue working to advance the development of the international carbon market, which is essential for driving low-carbon investments and reduce global emissions cost-effectively. The carbon market can also generate major financial flows to developing countries.

•••

...

The European Commission believes the EU must show leadership by taking tangible action to become the most climate friendly region of the world as part of the Europe 2020. The EU has committed to a 20% emissions cut below 1990 levels by 2020, and to scaling up this reduction to 30% if other major economies agree to do their fair share of the global effort.

The European Commission has to outline a pathway for the EU's transition to becoming a low-carbon economy by 2050. Consistent with the EU 2020 strategy, the goal is to come up with intelligent solutions that benefit not only climate change, but also energy security and job creation.[8]

European Parliament members highlighted in November 2010 that the EU and the rest of the industrialised world must fulfill their responsibilities vis-a-vis developing countries. The EU has to show its willingness to continue in a second commitment period of the Kyoto protocol from 2013.

Members of the European Parliament call on EU Member States to make good on their €7.2 billion pledge of "fast-start" financing to help developing countries adapt to - and mitigate - the effects of climate change.

By 2020, the EU should contribute €30 billion per year (on top of other overseas development aid), towards a global climate fund.[9]

References:

- Kyoto protocol http://unfccc.int/resource/docs/convkp/kpeng.html
- UN Framework Convention on Climate Change
- European Climate Change Programme (ECCP)
- Copenhagen Accord unfccc.int/resource/docs/2009/cop15/eng/l07.pdf
- European Commission strategy to reinvigorate global action after Copenhagen http://ec.europa.eu/clima/policies/international/negotiations_future_en.htm
- The Cancun Agreements http://cancun.unfccc.int/
- European Parliament resolution of 25 November 2010 on the climate change conference in Cancun (COP16) http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0442+0+DOC+XML+V0//EN
- Document on "A vision for an enhanced Monitoring, Reporting and Verification (MRV) system" at the meeting of the Major Economies Forum

Notes

[1] The Kyoto Protocol http://unfccc.int/resource/docs/convkp/kpeng.html

[2] The Copenhagen Accord: unfccc.int/resource/docs/2009/cop15/eng/l07.pdf

[3] The Cancun Agreements http://cancun.unfccc.int/

[4] Final Results at the Cancun Climate Talks: Clear Progress on Climate Finance http://switchboard.nrdc.org/blogs/hallen/cancun_climate_talks_final_res.html

[5] Adapting to Climate Change in Developing Countries www.parliament.uk/documents/upload/postpn269.pdf

[6] Climate Change Impacts, Vulnerabilities and Adaptation in the Developing Countries http://unfccc.int/resource/docs/publications/impacts.pdf

[7] Adapting to Climate Change in Developing Countries http://www.parliament.uk/documents/post/postpn269.pdf

[8] Climate change: European Commission sets out strategy to reinvigorate global action after Copenhagen: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/255&format=HTML&aged=0&language=EN&guiLanguage=en and

http://ec.europa.eu/clima/policies/international/negotiations_future_en.htm

[9] European Parliament resolution of 25 November 2010 on the climate change conference in Cancun (COP16) http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0442+0+DOC+XML+V0//EN and http://communicate-europe.co.uk/index.php?id=6811&tx_ttnews%5Bpointer%5D=12&tx_ttnews%5Btt_news%5D=4372&tx_ttnews%5BbackPid%5D=9676&cHash=f513d453b6edca35bc6a473a018c77cb

THE EFFECTS OF CLIMATE CHANGE IN ETHIOPIA AND THE IMPORTANCE OF ADAPTATION MEASURES

Africa is one of the most vulnerable continents to climate variability and change because of multiple stresses and low adaptive capacity. Although contributing very little to the current anthropogenic climate change this continent will be hit the most as all Africa's major economic sectors are vulnerable to current climate sensitivity, with huge economic impacts. African agriculture is predicted to be especially vulnerable as the region already endures high heat, low precipitation, agriculture is a large fraction of the economy and farmers rely on basic technology. Poor countries are facing several risks: global food supplies may go down, with poor households coping with higher food prices; agriculture in low latitudes may become less productive, dropping the income of many poor farmers. Ethiopia is then a "good" example of the challenges African continent is facing.

Ethiopia is among the 10 most vulnerable countries to the impacts of climate change in the world. The country is expected to suffer severely from climate change as increasingly unpredictable erratic weather systems will bring drought and flood sporadically and in higher frequency, degrading natural resources and compromising agricultural production. With 80% of the population reliant on weather dependent agriculture, most of which is small scale or pastoral, the effects of climate change threaten to be huge and inevitably the poorest and the most marginalised members of society will be those hit the hardest.

The occurrence of extreme climate variations will worsen many existing environmental problems including soil erosion, deforestation, drought, over-grazing, desertification, loss of biodiversity, flooding and water volatility. In the case of Ethipia, it is evident that the issue of climate change must be given thorough attention if targets for development, poverty reduction and food security are to be met. International partners, including the EU, have as important role in this context.

Improving capacities of poor communities to adapt can to a large extent offset many negative impacts of climate change. Taking into account environmental variability in Ethiopia the adaptation policies should target different agro-ecologies based on the constraints and potentials of each agro-ecology instead of recommending uniform interventions. There are many ways to adapt to climate change and increase resilience to negative impacts of climate change on food security: these include investment in technologies such as irrigation, planting drought-tolerant and early-maturing crop varieties, strengthening institutional set-ups working in research, educating farmers and encouraging ownership of livestock, as owning livestock may buffer the effects of crop failure or low yields, develop early warning systems and disaster preparedness, improve pest and disease forecast and control or improve and conserve soils. Potential adaptation measures regarding water resources could be among other: increase water supply, e.g. by using groundwater, building reservoirs, improving or stabilising watershed management, decrease water demands, e.g. by increasing efficiency, reducing water losses, water recycling, changing irrigation practices, develop and introduce flood and drought monitoring and control system, and improve water management.

Source: How Trade, Climate Change and Scramble for Land Impact Ethiopia's Food Security. Europe's Policy Coherence for Development in Bigger Picture. PCD Impact Study, 2011.

THE IMPACT OF BIOFUELS IN DEVELOPMENT POLICIES[1]

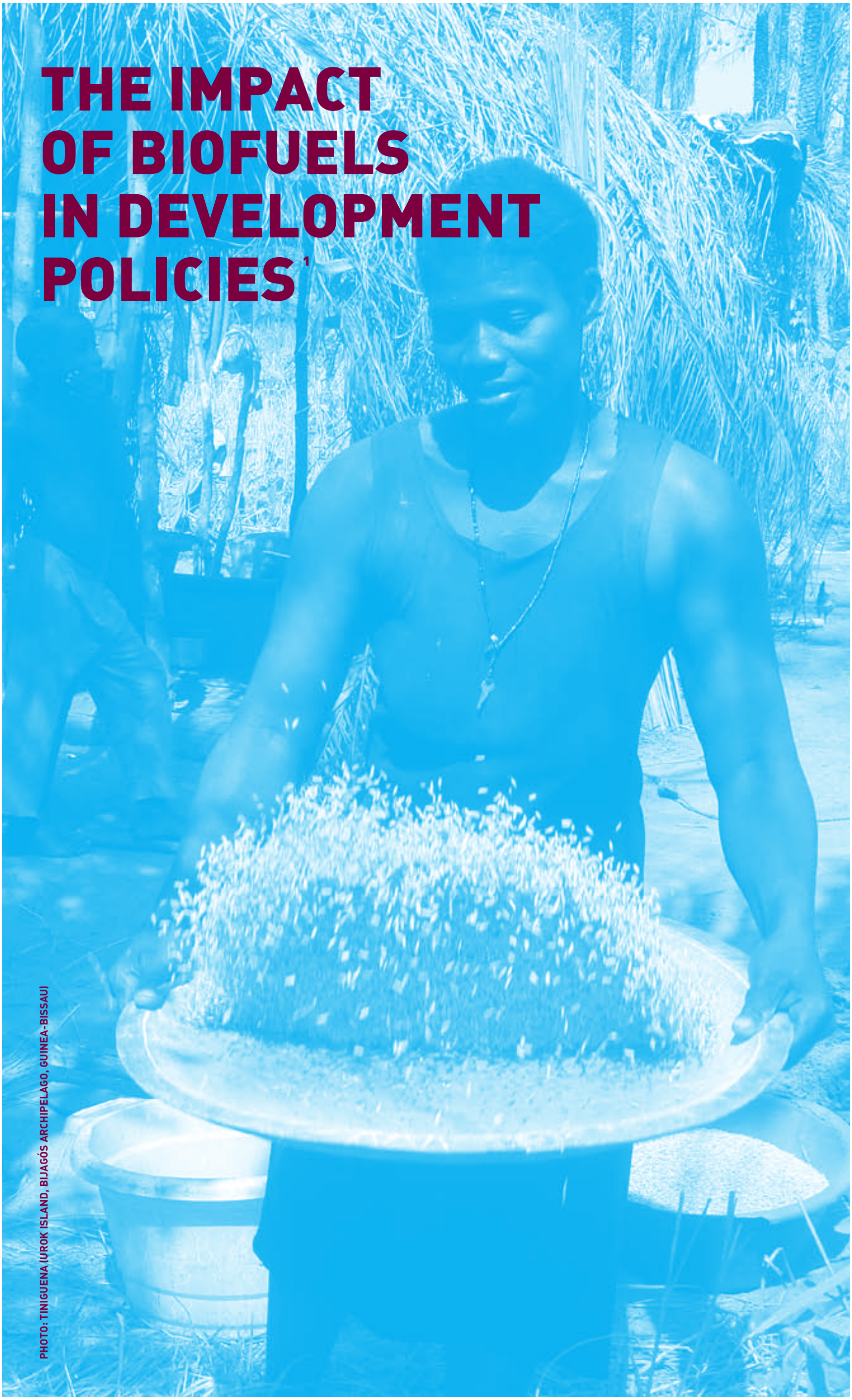


PHOTO: TINIGUENA (UROK ISLAND, BIJAGÓS ARCHIPELAGO, GUINEA-BISSAU)

The concepts of sustainability and sustainable development have never been as important as today. In recent years, mankind has faced extreme natural phenomena increasingly frequent and devastating. Rains, droughts, floods, typhoons, tornadoes and other incidents often happen on a "glocal" scale. The international scientific community establishes a direct link between these phenomena and climate change caused by the overuse of natural resources, used to exhaustion as sources of energy. The energy and environmental challenge we face is particularly difficult for the EU, since it is estimated that energy demand will double by 2030 and oil demand will grow 40% over the same period. To respond to energy dependence on fossil fuels, and to help reduce greenhouse gases emissions, particularly in the transport sector, biofuels have been pointed out as a green solution to address the problem of climate change. However, food and environmental impacts associated with its use and production are controversial, making its use a strongly debated issue.

One of the largest world economies, committed to succeed in creating a hypocarbonic economy by 2050, the EU plays a key role in promoting the use of alternative energies to fossil fuels by adopting measures of rationality in their energy policies and new measures to ensure a more efficient use of natural resources. However, it is crucial that the EU, when developing these policies, do not conflict with the interests of developing countries. Green benefits for European citizens, coming from the large-scale production of biofuels, should not be obtained at the expense of food security, biodiversity and livelihoods in developing countries.

Not taking into account the environmental and human impacts of biofuel production for developing countries endangers the efforts that the EU carries out to eradicate poverty by promoting the economic participation of the poor.

THE RACE FOR BIOFUELS

Biofuels have been praised by some as the solution to the broad problem of climate change and poverty, while others fear mass hunger and ecological disasters.

The "Biopact" advocated by many environmentalists and many countries in sub-Saharan Africa was based on the simple idea that these countries could produce biofuels without affecting their ability to produce food. Thus, developing countries, after they ensure their basic needs, would export biofuels to Europe and the United States, and invest their earnings in local rural economies. For the success of this Biopact, it was necessary to fill a number of prerequisites, such as putting an end to agricultural subsidies and trade barriers, ensuring the transfer of technology, and social and environmental sustainability in the South. But a new gold rush has soon begun, with the EU and the US pushing their own biofuels trade, through heavy subsidies, tariffs and customs, thus overturning the Biopact dream.

Also for the United Nations, biofuels like ethanol can help greatly reduce global warming and create jobs for the rural poor, but their benefits can be eliminated by serious environmental problems, such as soil damage and an increase in food prices to the poorest populations.

Currently, there are many voices joining the debate and pointing to the many disadvantages of biofuels production and use.

What are Biofuels? Biofuels – also called agrofuels – come from the transformation of biomass, ie organic matter.

First generation: Biofuels known as first generation are made from plant matter produced by agriculture (sugar beet, wheat, corn, rapeseed, sunflower, sugar cane) and compete with food crops.

Second generation: The second-generation biofuels will be produced from cellulose and other plant fibers found in wood or in non-edible parts of plants. The micro algae or the organic farming of waste are other possible tracks to be researched.

BIOFUELS IN THE EUROPEAN STRATEGY

Energy policy was at the heart of the European construction, not only in the Messina Declaration, but also in the creation of the European Coal and Steel Community in 1952 and the Euratom Treaty. After 50 years, energy returns to be high on the agenda and becomes a pillar in the EU Strategy for Economic and Social Development. The Renewables Directive of 2009 reaffirmed the commitment of the community to the development of EU-wide renewable energy sources beyond 2010, setting as a target a 20% share of renewable energy in the overall EU energy consumption by 2020, and a minimum target of 10% of biofuels in the consumption of petrol and diesel for transport by 2020, to be achieved by all Member States.

Renewable energy includes solid biomass, wind power, solar power and hydroelectric power, and biofuels.

Biofuels are the main source of renewable energy used in transport, but assuming its role as a replacement fuel, their contribution will always be marginal, since their economic sustainability is artificial, depending on direct or indirect subsidies.

The EU's efforts to solve the problem of climate change, without neglecting the energy needs of Europe, are based on three main objectives for 2020: to reduce greenhouse gases emissions by 20%, to increase to 20% the share of renewable energy and to reduce energy consumption by 20%.

In the face of the new document "Transport 2050" and the clear commitment to limit Europe's dependence on imports of oil and to reduce carbon emissions from transports by 60% by 2050, pressure on biofuels will certainly increase. The increase in oil prices and growing concerns about energy security and fears over climate change will also put biofuels at the center of an increasingly attractive global stage. Increasingly, the production of sugar cane, corn and wheat are converted into ethanol, and the production of rapeseed and palm oil into biofuels.

In a context of economic and social crisis, it is necessary to restore balance. On the one hand, biofuels represent a cleaner and cheaper way to meet the energy needs of the world, on the other hand, the strong impact on the environment and food challenge the EU energy strategy. According to a recent study by the IEEP, the current European policy on biofuels will affect up to 6.9 million hectares of grasslands and peatlands for food production. We also see a conversion of farm and forest land, especially in developing countries, to grow biofuels. Environmentally, it is noteworthy that the IEEP study shows that about 73 million tons of greenhouse gases may be released to the atmosphere due to the (indirect) change of land use for biofuels, which may represent a scenario of destruction of natural ecosystems to promote the supply of cars, and reverse all the benefit logic underlying the use of biofuels.

In Portugal, the National Action Plan for Renewable Energy (PNAER) presented by the Portuguese Government to the European Commission on 30 June 2010, under the Directive 2009/28/EC of 23 April 2009 (Directive RED), on the promotion of the use of energy from renewable sources, defines various measures to the transport sector, including the incorporation of biofuels in petrol and diesel by 2020.

According to the non-goovernmental organisation Quercus, in the case of Portugal, by using the amount of biofuels estimated by our National Action Plan for Renewable Energy, and transposing the results of the European model into our country, we would be responsible for indirect changes in land use that affect up to 150 thousand hectares of natural ecosystems, with annual emissions of 1.6 million tons of greenhouse gases, equivalent to an annual volume of traffic on Portuguese roads of 550.000 vehicles.

THE IMPACT OF BIOFUELS ON FOOD SECURITY POLICIES

The impact of biofuels on food safety has generated strong controversy in recent years. To meet EU targets for renewable energy in transport, first-generation biofuel producers have carte blanche to continue to convert forest and agricultural land, especially in developing countries, for agrofuel cultures, thus fueling our cars instead of producing food to combat hunger in those countries. By endangering the life and survival of thousands of people, and threatening the fragile food security of some developing countries, especially in Africa, energy policy appears to be inconsistent with the development policy of the 27 Member States.

The Renewable Energy European Directive, in its Article 23, requires the Commission to follow and monitor the impacts of biofuels policy, including the impact on the availability of affordable food, particularly for populations in developing countries. The Directive requires the Commission to report on the issue every two years from 2012 on.

To achieve the EU target of 10% for the use of renewable energy in transport by 2020, biofuels must meet the stringent restrictions on changes in land use for biofuels set out in EU legislation. There cannot be processes of deforestation or land use changes which damage the soil. The issue of indirect changes in land use will be assessed in a forthcoming report, which may be accompanied by a legislative proposal.

In a recent communication, the Commission reiterated that the EU and its Member States should support the development of internationally agreed principles for responsible investment in agricultural land, based on the existing Guidelines for Rural Development. The Commission also asked the EU and its Member States to launch a joint initiative with the African Union to accelerate the implementation of the Guidelines for Rural Development in Africa.

With the approval of the Transport 2050 paper, the EU assumes that improving agricultural productivity is very important to ensure that increases in bioenergy production can proceed without negative repercussions in other end uses of forestry or agriculture, including food production.

Despite the good intentions of the legislation at the 4th EU-Brazil Summit, in June 2010, an agreement was signed between the parties to collaborate on projects to produce biofuels in Mozambique.

"Using thousands of hectares of agricultural land for jatropha and sugar cane plantations in Mozambique, a country that suffers from permanent hunger, for crops destined to fuel European cars is immoral and perverse", said Adrian Bebb of the NGO "Friends of the Earth International". According to the NGO representative in the country, Anabela Lemos, the expansion of plantations for the production of biofuels in Mozambique "is occupying fertile land used by local communities to grow food, besides creating poor working conditions for local workers and generating conflicts over land ownership".

Foreign companies of biofuels would have requested the right to use about 4.8 million hectares of land in Mozambique, almost 15% of all arable land in the country, according to Lemos.

This agreement is regarded by the parties as the first step towards a broader triangular cooperation between Brazil, the European Union and African countries, whose main focus will be the development of renewable energy in Africa.

Supposed benefits identified: Brazilian industries that decide to invest in Africa would benefit from a better access to the European market, since Mozambique can export sugar and ethanol to the EU without import tariffs imposed on Brazil, a privilege granted to former European colonies. The European Union, in its turn, would guarantee the purchase of fuel at competitive prices to meet its goal that 10% of all energy consumed by its transport sector should come from renewable sources by 2020.

DEVELOPMENT POLICY

The central objective of the European development policy is poverty reduction, as seen in the first Millennium Development Goal: halving extreme poverty and hunger by 2015. There are 925 million undernourished people in the world, one in six, 98% of whom live in developing countries. In general, these people spend between 50 to 80% of their income on food. The rise in food prices caused by the sudden rush to biofuels is a profound tragedy for the poor in urban and/or rural areas. Competition between food and energy will rise the prices of basic food between 20 and 50% over the next ten years, according to FAO and OECD estimates. This would mean that the number of people with no food security in the world would almost double by 2015, instead of being halved as formulated in the first Millennium Development Goal.

Sustainable development and a growing concern for the environment are also clear objectives of European policies. A deregulated increase in biofuel production threatens to sacrifice biodiversity. If tropical forests are cut down for their space to be used for the production of energy crops, then biofuels will even contribute to the increase in net emissions of greenhouse gases. At the same time, and as the European Commission states, biofuels offer an opportunity for developing countries to take advantage of their climate, which can trigger investment in agricultural productivity in developing countries. However, opportunities in the local use of biofuels and their possible consequences, plus the social, food and environmental impacts associated with converting food into fuel, should be carefully monitored.

GENDER INEQUALITY IN THE AGRICULTURAL SECTOR IS ONE OF THE CAUSES OF WORLD HUNGER

"If women had access to land, livestock, labour, education, credit, fertilisers and technical equipment, their income would be equal to men, they would produce more and agricultural production as a whole would increase". FAO

The rapid increase in the production of liquid biofuels on a large scale in developing countries can worsen the marginalisation of women in rural areas and threaten their livelihoods. This was the conclusion of the report released by FAO, "Gender and Equity in liquid biofuels production. Minimising risks to maximise the opportunities".

According to this report, unless developing countries adopt policies to strengthen the participation of small farmers, especially women, in biofuel production, inequalities may increase, further aggravating the vulnerability of women to hunger and poverty. The large-scale plantations of biofuels require the intensive use of resources, to which traditionally small farmers have limited access and that particularly harm women, limited by discriminatory policies of land ownership. Women in developing countries grow on marginal land, fearing that with global demand for liquid biofuels, associated with a high need for land, can generate the expropriation of the so-called marginal lands, which would mean a partial or total displacement of agricultural activities of women to even more marginal lands, thus diminishing their ability to get food. This inequality is also evident in the access to employment. In general, women who work in the plantations tend to more disadvantaged than men, in terms of benefits, safety and health at work.

A significant number of agricultural workers in developing countries is hired on a temporary and seasonal basis, which limits any social benefits and health care. The large owners tend to hire women, since they pay less than their fellow men and tend to be more exploited.

A fair biofuels policy should be consistent, and if possible help promote gender equality and empower women. To achieve this objective, measures should be taken to ensure that women and female breadwinners have the same opportunity than men and male breadwinners to participate in and benefit from the production of liquid biofuels.

SLAVE WORK… OR IN DEGRADING CONDITIONS

“After more than 100 years after the publication of the Golden Law, slavery remains one of the greatest expressions of human and social degradation plaguing Brazil. Expressed in different ways and intensities, in recent times slavery is characterised by the curtailment of freedom, the degradation of living conditions, the financial linking, the authoritarianism in social relations and, fundamentally, the disrespect for and violation of human rights. In Plan for the Eradication of Slave Labour.

The complaints that in some Brazilian farms are resorting to slave labour are not new. These complaints occur mainly in the farms of the producers of cane sugar and soy, two of the main ingredients of first generation biofuels.

The labor equivalent to slavery in Brazil was recognised in 1995. Since then, Brazilian authorities have adopted a number of laws and plans to combat this practice. However, despite labour laws in Brazil are quite broad and protect workers against labour relations considered degrading or so-called forced labour, they are not strictly met by landowners who exploit slave labour.

According to surveys by the Social Observatory, in the last fifteen years have been released more than 38 000 people in different regions of Brazil. It is estimated that more than 25 000 enter the cycle of slave labour annually.

For many NGOs, the aggravation of this phenomenon is directly related to the mass production of biofuels. To show the commitment of the country in the fight for social rights of workers, former President Lula da Silva, at the International Conference on Biofuels (2007), stated that "The creation of a market for biofuels should be made responsibly and sustainably. Therefore, we are developing the Brazilian Program for Technical, Environmental and Social Certification of Biofuels, which will show that the whole production chain of biofuels in the country respects environmental, social and labor standards granted under international and Brazilian law, and also demanded by society. On working conditions, certification of biofuels will require: no use of slave labour; no use of child labour; no deforestation; respect for the worker's rights; adequate working conditions."

Among the main complaints, the farms are often accused of exploiting their workers with excessive hours, low wages and extremely poor security, health and housing conditions.

In many cases workers fall into abusive debt with employers for transport from their home towns to the farms and for housing rents, which can even be higher than their wages, thus feeding a cycle of poverty and human degradation.

Dirty List:: List published by the Brazilian Ministry of Labour, divided by states where companies are located, employer name, company name and quantity of workers in slave-like conditions, in poor hygiene conditions, without adequate food, without payment and withheld documents.

In 2010, the Special Rapporteur of the United Nations for Contemporary Forms of Slavery, Gulnara Shahinian, went to Brazil to present a report on the state of the country in combating slave labour. According to the report, states that found the largest number of people in slavery conditions are in the Amazon area: Pará (48%), Mato Grosso (15%), Maranhão (8%) and Tocantins (7%).

Workers are recruited primarily in the states of Maranhao, Piaui and Tocantins, and the activities that use slave labour the most are: cattle (38%), large-scale agriculture, such as cane sugar production (25%) , deforestation (14%) and charcoal (3%).

“The situation of slave labour affects males between 15 and 40, from low-income families, and the vast majority of workers in slave labour are in debt bondage”, the report said.

The maintenance of poor working conditions, many of them similar to the models of slavery, prevents the rural population to benefit from agricultural income. Also, the dismantling of family agriculture contributes greatly to the social inequalities that monocultures, especially soybeans, cause, because the landless and jobless are recruited to work in slavery conditions on the large farms.

Among the challenges for the eradication of forced labour in the country, the Special Rapporteur mentions, in relation to the judiciary power, the need for effective enforcement of criminal sanctions on those found guilty by the use of forced labour, and the expansion of the available budget to combat this crime.

The eradication of slave labour is not only a civilisational challenge, but also an immediate response to the respect for fundamental human rights.

For the American sociologist Kevin Bales, “the liberation and empowerment of current victims of this type of crime may increase the Gross Domestic Product (GDP) - the sum of all the wealth generated by a country. The momentum generated by the release of workers in slave-like conditions would be particularly important to boost local economies, which would benefit from the activation of a consumer market that is healthy and permanent, formed by former victims of slavery who managed to overcome the yoke of vulnerability."

Although thousands of workers have been released and the number of complaints increased, there is still a long way to go. To meet one of the main problems of our time we need to foster the work of state, NGOs and civil society engagement.

According to estimates by the NGO Free The Slaves, the total number of people subjected to slavery in the contemporary world reaches 27 million.

INCOHERENCE

The Lisbon Treaty clearly defines the reduction and eradication of poverty as the central policy objective of EU’s development cooperation. This objective has to be respected whenever the EU implements policies that may affect the developing countries.

An energy policy based on environmental sustainability, competitiveness, security of supply and clearly supportive of renewable energy, including biofuels, must incorporate a strong concern in relation to food security of populations.

Despite the guidelines that the production of biofuels should be based on sustainability criteria, and the assumption that biofuels can encourage an increase in the agricultural productivity of other countries, increase manpower and enhance strategies of poverty reduction, studies show that an increase in the production of biofuels will surely result in replacing the production of food, which could lead to an increase in global food prices, thus increasing the potential shock to the producers and consumers in developing countries. Currently, 120 million tonnes of cereals for human consumption have been diverted to fuel production and according to the NGO ActionAid, "if all global biofuel targets are achieved, food prices may increase by 76% and 600 million people may be hungry." The collective efforts to eradicate poverty are likely to be threatened by the global reckless race to biofuels, whose production is largely subsidised. The equation involving the production of biofuels, the investing in commodities and natural disasters that set the price of food in the world has an impact on the fragile food security of some developing countries, especially in Africa.

For the environment, concerns arising from the massive use of biofuels are also evident. The recent European strategy for assessing the impact of biofuels is very optimistic to say that the objective of 10% of biofuels should not encourage the destruction of land rich in biodiversity, of areas designated for nature protection, or the protection of rare species or ecosystems. According to the European Agency for the Environment, "the arable land necessary for the EU to meet its target of 10% exceeds the available area." The result of the increase in biofuel production is growing pressure on soil, water and biodiversity. In face of these scenarios, there are serious concerns that, due to the lack of monitoring in some countries, the production of biofuels does not respect minimum environmental and social requirements.

The production of biofuels only makes sense in places where there are bioclimatic conditions, land availability and process efficiencies that do not conflict with the agricultural production of food and the loss of biodiversity.

To sustain its energy strategy, the EU needs to invest strongly in research, production and availability of second-generation biofuels (which will not enter the market before 2015-2020), which can represent an environmentally viable alternative to the economic development of poor countries.

CONCLUSION

In order to be aware of the benefits to developing countries, the EU must find a balance between their policies. The EU should abolish their taxes and subsidies on biofuels so that developing countries benefit from new export opportunities. On the other hand, should ensure sustainable and socially responsible production methods in those countries. The focus on second-generation biofuels should be strongly encouraged, since it may allow developing the agricultural sector in developing countries and make it more productive and better integrated in world markets. For the success of this strategy, it is essential that developing countries are immediately involved in the process, to avoid mistakes made in the development of first generation biofuels. International sustainability standards for biomass production should be strengthened, as well as the certification of fuels in order to ensure compliance with social and environmental standards. It is essential to address the challenges and opportunities resulting from biofuels in the global perspective of food security, energy and sustainable development needs. The sustainable use of bioenergy requires a balance among many factors that must be achieved at local, national and international level. Energy efficiency has to be seen as an inherent need to Development and Sustainable Growth.

WHAT NEEDS TO BE DONE?

- The European Union must ensure that their energy policy will not harm the food security of poor people in developing countries, whose daily survival is threatened by rising food prices and review its goal of using biofuels.
- The EU should abolish domestic subsidies and import tariffs for biofuels, in order to allow developing countries to profit from the opportunities for trade in biofuels. Fuel subsidies tend to be regressive and expensive.
- The European Union should develop comprehensive sustainability criteria for biofuels, including the most ambitious standards for reducing greenhouse gases and greater protection of biodiversity and ecosystems rich in carbon.
- The European Commission should ensure compliance with social criteria, to ensure that rural populations are not affected by the expansion of agricultural production.
- The European Union should encourage local processing of the use of sustainable biofuels in developing countries. Cooperatives of small farmers should be encouraged to prevent that benefits of biofuel production are captured by large producers.
- In order to ensure that biofuel production contributes to poverty and hunger reduction, policies adopted in developing countries should strengthen the participation of small farmers in biofuel production, increasing their access to land, capital and technology.
- The EU should invest strongly in research, production and offer of second generation biofuels, which can represent an environmentally viable alternative to the economic development of poor countries.
- A fair biofuels policy should be consistent, and if possible help promote gender equality and women empowerment. To achieve this, measures should be taken to ensure that women and female breadwinners have the same opportunity as men and male breadwinners to participate in and benefit from the production of liquid biofuels.
- Social and environmental sustainability of biofuel production should be pursued through na integrated and coherent approach to development policies.

September 2011

Bibliography

- http://ec.europa.eu/energy/renewables/index_en.htm
- COMMISSION STAFF WORKING DOCUMENT:: Recent progress in developing renewable energy sources and technical evaluation of the use of biofuels and other renewable fuels in transport in accordance with Article 3 of Directive 2001/77/EC and Article 4(2) of Directive 2003/30/EC
http://ec.europa.eu/energy/renewables/reports/doc/sec_2011_0130.pdf
- Commission's Communication "Tackling the challenge of rising food prices, adopted on 20 May 2008, COM(2008) 321 final and The Commission Staff Working Document "Monitoring prices developments" (SEC(2008)2970) accompanying Communication on Food prices in Europe, adopted on 9 December 2008, COM(2008) 821
http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2008_0321_F_EN_COMMUNICATION.pdf
- Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Text with EEA relevance)
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:EN:PDF
- Communication from the Commission to the Council and the European Parliament - The Renewable Energy Progress Report - Commission Report in accordance with Article 3 of Directive 2001/77/EC, Article 4(2) of Directive 2003/30/EC and on the implementation of the EU Biomass Action Plan, COM(2005)628 {SEC(2009) 503 final}
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0192:FIN:EN:PDF
- Communication from the Commission - an EU Strategy for Biofuels {SEC(2006) 142}
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0034:FIN:EN:PDF
- White Paper "European transport policy in the horizon 2010" http://ec.europa.eu/transport/strategies/2001_white_paper_en.htm
- Commission staff working document - Renewable Energy Road Map - Summary of the impact assessment {COM(2006) 848 final}
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2006:1720:FIN:EN:HTML
- Renewables make the difference
http://ec.europa.eu/energy/publications/doc/2011_renewable_difference_en.pdf
- Biofuels and Grain Prices: Impacts and Policy Responses, International Food Policy Research Institute, Washington, 2008
http://www.ifpri.org/sites/default/files/publications/rosegrant20080507.pdf
- Food and Agriculture Organisation of the United Nations (FAO):: http://www.fao.org/ ::
http://www.fao.org/righttofood/publi08/Right_to_Food_and_Biofuels.pdf
- Gender and Equity Issues in liquid Biofuels production. Minimising the Risks to maximise the Oportunities (FAO):: http://www.fao.org/docrep/010/ai503e/ai503e00.HTM

Notes

[1] This study was presented by the Evert Vermeer Foundation in the spring of 2009, and then translated and adapted to the Portuguese context by IMVF.

RAW MATERIALS INITIATIVE
THE NEW SCRAMBLE FOR AFRICA?!

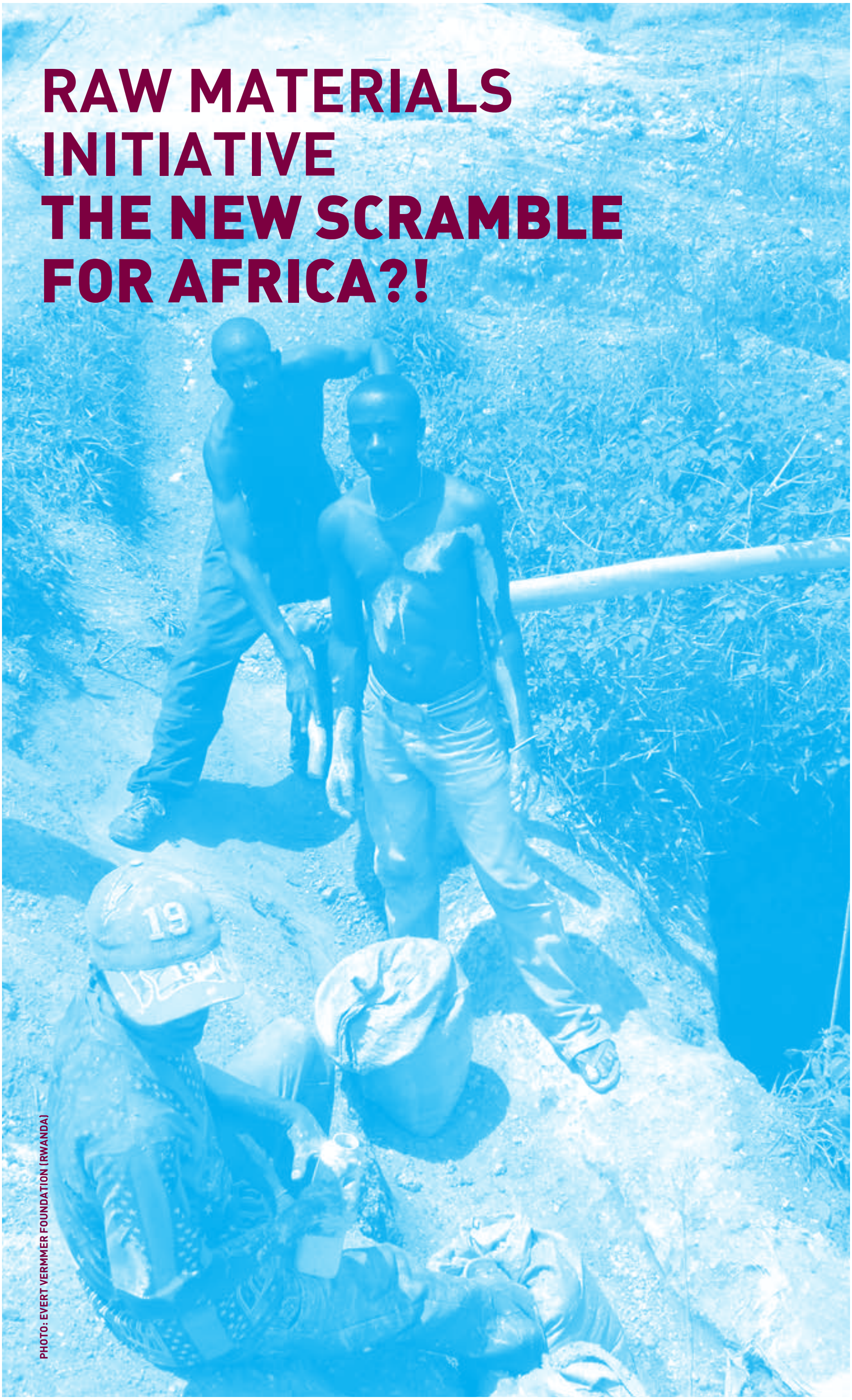


PHOTO: EVERT VERMMER FOUNDATION (RWANDA)

In 2008, the European Commission set up a strategy on raw materials, entitled: Raw Materials Initiative - meeting our critical needs for growth and jobs in Europe. This unfolded strategy seems unfair with regard to developing countries interests. It could lock resource-rich developing countries in a situation where they have no choice but to remain net exporters of raw materials, instead of being given the chance to develop their own downstream industries and move up the value chain. This outcome conflicts sharply with EU obligations: European policies other than development policy should take development concerns into account and not undermine development objectives.[1] The new Raw Materials communication published by the Commission in February 2011 does make some steps in the right direction.

THE RAW MATERIALS INITIATIVE: EUS DEPENDENCE ON IMPORTED RAW MATERIALS

For its supply of raw materials for production and industry, the EU depends to a very large extent on imports of all principal raw materials, 70% to 100% of all raw materials come from outside the EU, not seldom from developing countries.[2] The EU imported more than 175 million tonnes of metallic minerals in 2004, with a total value of €10.5 billion, compared to a domestic production of only 30 million tonnes. The import dependency rate for these minerals ranges from 74% for copper ore, 80% for zinc ore and bauxite, 86% for nickel and 100% for minerals such as cobalt, platinum, titanium and vanadium.[3] Especially minerals and high-tech raw materials such as uranium and coltan are found in countries in Africa. A few examples: in Guinea, iron ore and bauxite are found. South Africa produces gold, rhodium, platinum and chromium. Zambia is known for its copper mines and the Democratic Republic of Congo is particularly resource-rich. Copper, cobalt, tin ore, gold and coltan are found there. Some of these substances are not or hardly found elsewhere.

The European Commission has, in November 2008, published a strategy on raw materials, entitled Raw Materials Initiative (RMI) - meeting our critical needs for growth and jobs in Europe.[4] This document uses rather strong and aggressive language to announce the ways in which it aims to coerce countries into abolishing their market restriction measures.[5] The Raw Materials Initiative (RMI) has to be interpreted in the context of the EUs Global Europe policy documents. These show that the rationale behind the EUs fierce liberalisation efforts is the emergence of new players on the international markets, namely China and India. The increased competition from these economies is seen and felt by companies and governments in the EU as a potential threat to its sophisticated consumer goods industry. Clearly, China and the EU, not to mention big economies as the US, Japan and India, are after the same sources of raw materials for their products.

RESOURCE NATIONALISM VERSUS SOVEREIGNTY OVER NATURAL RESOURCES

In recent years, resource-rich countries have become more and more aware of the riches they hold, and of their value to the manufacturing industry. This rising self-awareness among resource-rich nations, among which many developing countries and their introduction of measures such as export restrictions, restrictive FDI policies and corporate taxation to limit access by European operators to their natural resources, is seen by the European Commission as a cause of concern.

The aim of the EUs strategy on raw materials is to strive for unhindered access to third countrys resources by actively pursuing a new diplomacy with regard to raw materials, aiming to eliminate the above mentioned threats to the European industries global competitiveness (duties, restrictive FDI policies, taxes). These threats to the European industry such as export taxes are currently the only way developing countries are able to generate taxes from resource extraction. Developing countries are very well able to show the use of export taxes as a policy tool in order to foster their own economic development.[6]

Besides, (developing) countries do have the legal right to restrict trade on environmental and social grounds and the ability to process raw materials themselves.[7] Moreover, states have the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies.[8] In other words, the EU has no right, under international law or under international economic cooperation, to pressure developing countries into liberalising their raw materials markets.

EU DEVELOPMENT POLICY

The overall goal of the EU Development policy is to combat poverty. The European Union provides a strong legal basis for development cooperation in article 208 of the Treaty on the Functioning of the European Union (TFEU). In accordance with this treaty, the primary objective of the EU development policy is the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries. The European Development Fund (EDF) is the main instrument for providing Community aid for development cooperation in the African, Caribbean and Pacific (ACP) states and overseas countries and territories (OCTs). The tenth EDF, covering the period 2008-2013 has been allocated €22.682 billion. A new generation of Country Strategy Papers (CSPs) has been developed under the 10th EDF programming process, providing new opportunities for ACP countries to address natural resource management challenges, while at the same time eradicating poverty and stimulating economic growth.

Natural resources, such as a richness in minerals and metals, diamonds and gold, offer enormous potential for economic growth in Africa. Recent analysis of the Commission points to the sustainable exploitation of natural resources, combined with the creation of a sound investment climate as one of the central drivers of growth in Africa.[9] These are very important statements considering the fact that most African nations are currently not benefiting at all from their own richness in natural resources.

With regard to the sustainable exploitation of developing countries natural resources, the Commission considers that not only political and environmental governance, but also the protection of the rights of indigenous people, ownership, equity and the proper financial management of resources are key principles and targets in this process.[10]

POLICY COHERENCE FOR DEVELOPMENT IN THE RMI

In February 2011 an update (new communication) on the RMI was published by the European Commission. Unlike in the RMI itself, fortunately more room was dedicated to the development angle, acknowledging the role of the EU and its companies in the field of raw materials. Some steps in the right direction were proposed. They will be discussed below and further suggestions on how these steps could work out in practice are provided.

In the 2008 RMI, the importance of coherence is mentioned between EU development policy and the EU's need for undistorted access to raw materials in order to create win-win situations. Good governance, transparency of mining deals and mining revenue, a level playing field for all companies, financing opportunities, sound taxation regimes and sound development practices are beneficial for both developing countries and the EU's access to raw materials.[11] The Commission proposes to use development policies and instruments to attain this win-win situation at three levels: a) by strengthening states through the increased use of budget support[12] b) by promoting a sound investment climate that helps increase supply, and c) by promoting the sustainable management of raw materials. These three levels proposed in the RMI in 2008 however seemed to turn PCD upside down; Policy coherence for the supply of raw materials to the EU.

In the February RMI update however some more fair proposals are made. The first one is about governance issues in relation to regulatory frameworks for taxation. Country by Country reporting (also see our case study on Fair Taxes) is presented by the European Commission as a possible opportunity for providing more transparency. Greater transparency will help society at large and national supervisory bodies to hold governments and companies to account for revenue payments and receipts, and thus decrease fraud and corruption.[13]

Another good step concerns the sentence on the promotion of the application of EU standards by EU companies operating in developing countries. It is stated by the Commission that developing a code of conduct of EU companies in third countries could be of use here. How such a code of conduct is envisioned does not become clear yet.

UNFAIR POLITICS

On the one hand, through European development policies and financial support provided by the 10th EDF, the EU contributes significantly to the capacity of developing countries to manage and exploit their natural resources in a sustainable manner. Even in the RMI itself it considers the concepts of transparency, good governance, the promotion of human rights, sound financial management and sustainability as crucial to the exploitation of natural resources.

On the other hand, however, the Commission, in the initial RMI outlines a rather aggressive strategy aimed at securing access to third countries raw materials for its own, heavily dependent, industry. The Commission proposes to achieve security of supply by preventing developing countries governments from taking measures to limit the access of foreign companies to their natural resources, and aimed at controlling the outflow of these resources.

Every sovereign state, including African states must have the policy space to raise taxes, implement restrictive FDI policies, and control the outflow of raw materials, in order to finance measures to mitigate the consequences of soaring commodity and food prices, and to help lift their countries out of the poverty trap.

Although in the February update of the RMI some steps in the right direction have been made, currently the elimination of export taxes is one of the main contentious clauses within the Economic Partnership Agreements (EPA) negotiations (also see our case study on the EPAs). Therefore it seems the raw materials strategy of the EU is already being implemented by means of the EPAs. In the RMI update however some promising language is used, as it is stated that business capacity building should be fostered and trade agreements should provide the necessary flexibility to achieve this aim.[14]

CONCLUSION

By means of its development policy, the European Union, as Africa's most important trading partner and donor of development aid, intends to help developing countries lift their populations out of poverty by investing in the sustainable management of their natural resources, in good governance, and in promoting sound financial management. At the same time, however, through its raw materials diplomacy, pursued with a view to securing access to raw materials, the EU intends to limit these countries policy space in terms of taxation, (non-tariff) barriers to trade, and other measures it calls market distorting. These exact measures together with the EU development policy should give these countries the chance to carefully manage their own extractive industries. But even more importantly to take steps in order to move up the value chain and become able to develop their own manufacturing industries rather than being obliged to simply keep exporting their raw materials. The overall result of the RMI seems now to become a situation where the EU's own, long-term, development policy objectives are in conflict with its short-term economic and industry interests. This outcome conflicts sharply with EU development policy objectives and conflicts with the obligation, deriving from the TFEU, to take development interests into account in other policy areas that might affect them.[15]

ADDITIONAL INFORMATION

CONFLICT RESOURCES

Over 50% of major mineral reserves are located in countries with a per capita gross national income of US$10 per day or less. This creates new opportunities for these resource-rich developing countries, particularly in Africa, to significantly increase their national income since many of them are still facing poverty or slow growth. However, some of these countries are facing violent conflicts, often fuelled by competition for control of natural resources. Conflicts have even become self-financed, as the private actors in the conflicts have increasingly relied on natural resources revenues to fund military activity.[16]

Many resource-rich countries have indeed experienced the negative side of mining. Armed groups have often enriched themselves through minerals extraction, doing deals with companies and using the revenues to fuel civil wars - a phenomenon called the 'resource curse'. Natural resources are exploited beyond a sustainable level, spoiling natural habitats, displacing local communities and affecting people's livelihoods. In the past and present, in many developing countries, the presence of sought-after minerals and other resources have led to armed conflicts and violence.

The European Commission identifies two chronic areas in which natural resources are related to conflict and instability in Africa: the Mano- River region in West Africa and a line extending from Sudan and the Horn of Africa down to eastern Congo in eastern and central Africa. These two areas are dominated by a large number of countries in conflict as well as by a high proportion of fragile states that lack credible, legitimate and/or effective governance.[17]

To the competitiveness of European companies, a stable and steady import flow of raw materials is indispensable. When it comes to the so-called critical[18] raw materials, this secure and undistorted supply is even more important. In a conflict-affected region, access to mines is obviously not self-evident. Foreign companies usually withdraw from a region as soon as violent conflict breaks out. Therefore, a stable and secure political situation, well-functioning political institutions, good governance and sound financial management are important criteria in determining whether a specific metal or mineral is considered critical.

EXTRACTIVES INDUSTRY

Despite the current economic slowdown, an unprecedented demand for raw materials marks a trend which is generally expected to consolidate in the coming decades, partly due to a rapid increase in demand from emerging economies such as China and India. In the EU, demand for raw materials is also not likely to decline. In Europe, such sectors as construction, chemicals, automotive, aerospace and machinery provide a total added value of € 1.324 billion. Employment for some 30 million people depends on access to raw materials.[19]

Some extractive companies play a dubious role in this process, especially when they find themselves in situations where local rule of law and governmental institutions are weak or absent.[20] While most companies do not deliberately seek to profit from violence, their investments and operations could contribute to poverty and insecurity.[21]

EITI

There are, however, also good examples of industry-led initiatives. One such example is the Extractives Industries Transparency Initiative (EITI). The EITI is a process by which government revenues generated by extractive industries such as tax, profit oil and royalties are published in independently verified reports. These reports are based on information about payments made by companies, and revenue received by governments.[22]

EITI aims to improve transparency in countries rich in oil, gas and mineral resources. The initiative is government-led but the private sector and civil society organisations both play significant roles in how it is implemented. The idea of the EITI was first proposed by then British Prime Minister Tony Blair at the World Summit on Sustainable Development held in Johannesburg in 2002. The aim was to combat the so-called "resource curse" which is affecting developing and emerging economies.

The EITI revolves around a simple idea: companies extracting minerals in developing countries report how much money they pay as taxes, bonuses of signatures, duties, royalties and other payments. Governments do the same and all those data are compiled and audited by an independent body in accordance with international standards. The final result is published in the form of a country report and made available to a wide audience in a publicly accessible, comprehensive and comprehensible manner.

WHAT NEEDS TO BE DONE?

- The European Union should allow ACP countries to maintain their sovereignty and policy space in relation to the appropriate use of their own natural resources. They should be able to use investment regulations, tariff barriers and export restrictions to promote equitable, local and sustainable economic development.
- The European Commission through its development policy should stimulate resource-rich developing countries to implement their own industrial policies, to protect their infant industries by using legitimate barriers to trade, and by introducing environmental measures. This should allow resource-rich developing countries to move up the value chain, so that the added value to (semi) processed products remains in the country of origin and would thus stimulate economic development.
- Within its development budget the EU should allocate sufficient resources to the building of energy and environmental infrastructure to enable developing countries to stimulate economic development.
- The EU should use its political and economic power to set clear rules in relation to the extraction of raw materials. Like suggested in the February 2011 RMI update an EU code of conduct for EU companies operating in third countries should be developed and measures should be taken to enforce such a code of conduct.
- In order to provide for more transparency in the supply chain and to minimise the role of European companies in fuelling conflicts over resources, the EU should implement Country by Country reporting, following the US example of the Dodd Frank Act.
- Within the EPA negotiations the EU should be more flexible as suggested in the RMI update and make sure developing countries can demonstrate the use of export taxes as a policy tool and therefore keep using them.
- In all policy initiatives and actions elaborated on the basis of the strategy laid down in the Raw Materials Initiative that affect developing countries, DG Development should be closely involved, and ACP partner countries and civil society organisations should be consulted.

March 2011

Notes

[1] The EU has committed itself to enhancing PCD in the 2005 European consensus on Development. "The EU is fully committed to taking action to advance Policy Coherence for Development in a number of areas. It is important that non-development policies assist developing countries' efforts in achieving the MDGs. The EU shall take account of the objectives of development cooperation in all policies that it implements which are likely to affect developing countries. The EU commitment towards policy coherence is not only a political commitment. It also has a strong legal basis in Art. 208 TFEU: the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

[2] Resource-rich developing countries that have recently stepped up their exploration and extraction activities include the DRC (copper, cobalt), Zambia (copper), Zimbabwe (platinum) and South Africa (iron ore).

[3] Public consultation on Commission Raw Materials Initiative, Background paper, p.1

[4] COM(2008) 699, The Raw Materials Initiative meeting our critical needs for growth and jobs in Europe, Commission Communication to the European Parliament and the Council.

[5] COM(2008) 699, p.7

[6] Example of export taxes to the benefit of Kenyas leather industry See Ramdoo (2011), Shopping for raw Materials (ECDPM) on p.28.

[7] The UN Covenant on Economic, Social and Cultural Rights states that all peoples may, for their own ends, freely dispose of their natural wealth and resources, without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of existence.

[8] Rio Declaration on Environment and Development, UNCED, 1992, quoted in: Idem, p.v.

[9] Cappelle, Jan for Fatal Transactions, From conflict resources to sustainable development Memorandum by Fatal Transactions on the EUs contribution to natural resource management in Africa, July 2008, p.9.

[10] http://www.eldis.org/vfile/upload/1/document/0708/DOC22992.pdf.

[11] COM(2008)699, Communication from the Commission to the European Parliament and the Council, The Raw Materials Initiative meeting our critical needs for growth and jobs in Europe, p.8.

[12] One could wonder whether increased budget support is the appropriate means to strengthen states that are known to have weak political institutions and are generally considered in lack of credible, legitimate and/or effective governance.

[13] COM(2011) 25 final Tackling the challenge in commodity markets and on Raw Materials. P. 15

[14] Idem, p. 16

[15] The principle of policy coherence for development (PCD) as laid down in art. 208 TFEU.

[16] http://www.reliefweb.int/rw/lib.nsf/db900SID/MCOT-7LRKQ3?OpenDocument

[17] Cappelle, Jan for Fatal Transactions, From conflict resources to sustainable development Memorandum by Fatal Transactions on the EUs contribution to natural resource management in Africa, July 2008, p.9.

[18] In the Commission Staff Working Document the following materials have been identified as critical: antimony, chromite, cobalt, germanium, gallium, indium, lithium, magnesium, manganese, molybdenum, niobium, platinum, palladium, rhodium, rare earths, rhenium, tantalum, titanium, tungsten, and vanadium.

[19] COM(2008) 699, The Raw Materials Initiative meeting our critical needs for growth and jobs in Europe, Commission Communication to the European Parliament and the Council.

[20] Cappelle, Jan for Fatal Transactions, From conflict resources to sustainable development Memorandum by Fatal Transactions on the EUs contribution to natural resource management in Africa, July 2008, p.7

[21] http://www.reliefweb.int/rw/lib.nsf/db900SID/MCOT-7LRKQ3?OpenDocument

[22] This paragraph was taken from: Kaninda, John T., An overview of anti-corruption initiatives and their impact on Corporate Accountibility in Sub-Saharan Africa: analysis and perspective, Johannesburg, May 2009, p.4

ILLEGAL LOGGING IN GHANA

Illegal logging and global trade in illegal timber are recognised as key threats to forests, biodiversity and development worldwide. Illegal logging has severe environmental and social implications for the world's forests and communities that rely on forest resources. Moreover, illegal logging deprives developing countries' governments of highly needed revenue and often promotes corruption, undermines good governance, and can create conflicts among local populations.

In Ghana, forests are vanishing at an alarming rate. Between 1900 and 1990, the country's forest cover fell from 8.2 to 1.5 million hectares. While 70% of Ghana's wood comes from illegal logging, the EU has always been Ghana's major trading partner in timber. In 2008, the EU accounted for 43% of the value of total exports and 33% of the total registered export volume. Although the responsibility to stop illegal logging is primarily in the hands of timber-producing countries, the EU as a major consumer of illegally logged timber in Ghana plays a key role in the fight against illegal logging. This is especially relevant in terms of coherence, since much of the EU's aid to Ghana is aimed at environmental protection, improving governance and achieving the Millennium Development Goals (MDGs). These are all areas that are affected through illegal logging.

The EU recognises that it has a role to play in countering deforestation and illegal logging. In 2003, it adopted the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, which focuses on improving governance in timber producing countries, supporting legislative and regulatory reforms and establishing systems to stop illegal timber from entering the EU market. One of the key elements of FLEGT is the establishment of Voluntary Partnership Agreements (VPAs) between the EU and timber exporting countries. The central aim of the VPA is to provide a legal framework and monitoring system to ensure that all imports of timber into the EU have been acquired, harvested, transported and exported in accordance with the law of the exporting country.

In November 2008, Ghana was the first country in the world to sign a VPA. In the meantime Ghana is developing the Wood Tracking System (WTS), necessary to issue VPA licenses. The implementation of the VPA in Ghana is funded through domestic funds and a multi-donor programme supported by the European Commission, France, the Netherlands, the UK and the World Bank. However, without taking additional measures and proper follow up, the VPA will prove ineffective in stopping illegal practices and local communities will continue to be deprived from forest resources' benefits. Although it is primarily the responsibility of the Ghanaian Government to carry out these reforms, if the EU does not ensure proper implementation and follow up of the VPA, it risks undermining its environmental and development investments.

ECONOMIC PARTNERSHIP AGREEMENTS EPAs: A TOOL FOR DEVELOPMENT?!

PHOTO: PAULO BARATA (GUINEA BISSAU)

The Economic Partnership Agreements (EPAs) between the EU and ACP countries were initially meant to merge development policy and trade policy into a comprehensive framework within the Cotonou agreement. However, as the delayed negotiations are in a complete deadlock it becomes more and more clear that development is not fully taken into consideration in the agreements. The content of the agreements is determined mostly by trade interests, turning EPAs into treaties that are essentially free trade agreements, which will result in the opening up of new markets for products from the EU. In other words, development is once again subordinate to trade interests. Therefore EPAs, in their current form, are not coherent with development policy.

The Cotonou agreement is currently the legal basis for trade between the EU and ACP countries. The central objective of the Cotonou agreement, signed in 2000, is poverty reduction.[1] The Cotonou trade agreement regime operates under a waiver from the WTO General Agreement on Tariffs and Trade (GATT) article 1 and 24. The latter article requires "the liberalisation of "substantially all the trade" between contracting parties "in a reasonable length of time[2]. Because the Cotonou waiver ended in 2007, the EU has since 2002 been negotiating new trade agreements with ACP countries. These new trade agreements are called Economic Partnership Agreements (EPAs). As a continuation of the Cotonou agreement, the EPAs were initially conceived as a development tool, designed to increase regional integration among countries in the ACP subregions and to diversify the economies in these ACP regions[3].

By encouraging regional integration, six regional trade blocs amongst ACP countries were formed: a Pacific, a Caribbean and four African regions[4]. These free-trade areas are intended to create larger regional markets deemed necessary for strengthening economic development, south-south trade, for competition purposes and for the attraction of substantial foreign investment. Also, this would supposedly give ACP regions a stronger position vis-a-vis the EU[5].

The reason why EPAs are being established is for the trade arrangements between the EU and the ACP countries to meet the WTO criteria for free trade. Within the WTO-framework agreements were made, obliging all countries to open their borders for imported products. On top of this, governments will have to limit subsidies intended to stimulate domestic production. The Cotonou agreement does not comply with these criteria. ACP countries have access to European markets to some extent, while many ACP countries apply tariffs to imported products[6].

The discussion on WTO compatibility in the EPA negotiations is based on an EU perspective. Although according to GATTs Article 24 substantially all trade should be liberalised, the WTO does not oblige countries to cease all trade preferences. However, European Commission guidelines state that in a Preferential Trading Agreement at least 80% of trade should be liberalised. This percentage is an EU interpretation of article 24 and through the EPA negotiations the EU is imposing this interpretation on ACP countries. Moreover, in order to comply with WTO rules, only trade in goods needs to be liberalised. Trade in services and trade-related issues are thus not required to be liberalised, but have been part of the EPA negotiations. These and other issues concerning WTO compatibility will be discussed in more detail below.

REGIONAL DISINTEGRATION

Despite ambitious ideas and good intentions, it was unclear from the start reaching regional integration would be achieved. Many of the countries were conveniently shoved together in regional groups but are hardly comparable in terms of economic development: some are relatively advanced, some belong to the worlds poorest, some produce rice, mangoes and bananas for export purposes, others depend on subsistence farming and others are exporting raw materials.

Currently only the Caribbean region has signed a full regional EPA and not with great enthusiasm.[7] With the nearing deadline in 2007, the European Commission decided to conclude interim EPAs (iEPAs). These iEPAs should ensure WTO-compatible market access for goods and extend the negotiation time towards full-EPAs, while avoiding a disruption in trade during the negotiating period towards these full-EPAs.

The countries that agreed to sign an individual interim EPA are usually the richest countries of their region. For these countries, the EPAs are relatively attractive; because of their economic position and relatively advanced economies, they will be in a better position to adapt to the new situation once borders open up for European products. Plus, not signing an interim EPA for them would mean they have to face trade arrangements under the enhanced Generalised System of Preferences (GSP+) which has much more disadvantages as it leads to higher EU tariffs than before. Moreover, they are not eligible for trade with the EU under Everything But Arms (EBA). Only Least Developed Countries (LDCs) can sign an EBA agreement, which is much more advantageous for them as all imports to the EU are quota and duty free. To protect developing countries, unilateral preferences like EBA are still allowed[8]. At the same time, the pressure for LDCs to sign an EPA is much lower as an EBA agreement is much more advantageous.

The fact is that countries are signing individual iEPAs because no consensus could be reached with the entire regional group. Therefore, iEPAs do not represent the interest of the entire regional group. This means that concluding an EPA for the regional group only becomes harder after some countries of the group have signed iEPAs. Consequently, an iEPA can counter the signing country's interests within the region as well as the region's own integration needs. Fair Politics argues that the EPAs should be conform to its regional integration goal, and the EU should stimulate regional integration in all ACP regions by approaching regions as collective partners.

Ghana is one of the ACP countries that has signed an iEPA and at the same time is part of negotiations for an EPA agreement as part of the regional group Economic Community of West African States (ECOWAS). An incentive for Ghana to sign the iEPA is, amongst others, to provide predictability for the business community and avoid trade disruptions with the EU. Yet, signing the iEPA endangers the chances of signing an EPA with the regional bloc, as several provisions in Ghana's iEPA contradict the negotiating position of ECOWAS. The most obvious example of this is the market access offer: while Ghana's iEPA commits to open 80% of the market, ECOWAS is still aiming for 60%.

TRADE LIBERALISATION: THE EXCLUSION LIST AND TIMEFRAME

As mentioned earlier, the EU guidelines for the EPAs state that at least 80% of trade should be liberalised. For the remaining percentage of trade, the developing country needs to create an exclusion list on which they list all the products that they want to protect. There are several problems with the exclusion list. Firstly, it is static in time, which means that the list of products cannot be altered over time while markets do change. Moreover, countries can only put products on the exclusion list, but they cannot effectively protect value chains. If value chains cannot be protected, the protection of single products will not have much effect. This will lead to the collapse of developing countries industries that cannot compete with goods from the EU.

Although the European Commission has stated that in special cases the transition period could be up to 25 years, the usual transition period amounts to 15 years, which is considerably short for countries that are highly dependent on tariff revenues[9]. Instead of linking liberalisation to a timeframe, it should be linked to a development benchmark, so that industries will only be liberalised once a certain level of competitiveness is reached.

MORE THAN WTO COMPATIBILITY: MOST FAVOURED NATION, RULES OF ORIGIN AND EXPORT TAXES CLAUSES

Moreover, the EPAs include rules of origin and Most Favoured Nation (MFN) clauses. The rules of origin clause entails that only goods originating from a country that signed an EPA or iEPA are allowed on the EU market. This implies that products containing inputs from other countries cannot access the EU market. The rules of origin clause thereby counters the EU's stated objectives to broaden market opportunities and to foster regional integration of developing countries.

The MFN clause implies that if the developing country signs a trade agreement with another country, whatever concession is granted to that country should also be granted to the EU. This clause limits the ability to diversify trading partners and increases dependency on the EU. The MFN clause is part of WTO compatibility, however the WTO has an Enabling Clause (2c) which allows developing countries to craft South-South agreements to which MFN does not apply[10]. The current MFN clause negotiated in the EPAs and iEPAs is contradicting the Enabling Clause and dampening South-South trade.

Some of the draft EPAs clearly state that apart from the traditional trade in goods, also services and in some cases even capital arrangements will be included in the agreements. The European Commission is actively pushing for this, even though, in many developing countries, a services sector hardly exists. This implies that the services paragraph is part of the negotiations purely with the aim to open up new markets for European companies. It risks to seriously damage the existing economies of developing countries, in terms of their sensitive local industries and production models. Therefore, an effective safeguard mechanism to protect the market from imported products should be included in the EPAs for ACP countries to use if faced with a surge of subsidised EU imports. On top of this, developing countries must have the right to temporarily support and/or protect the economic activities they want to develop.

Another principle in all EPAs is that no export taxes are allowed, while export taxes are legitimate according to WTOs GATT. Historically it has been a proven instrument for industrialisation and diversification. Especially for developing countries that are resource-rich, banning export taxes will be extremely damaging (see the Raw Materials case for details). By demanding that ACP countries eliminate all export taxes by signing an EPA, the EU takes away an important tool for developing countries to develop. And, thus the EU counters the stated development objective of the EPAs[11]. The EPAs should not require anything more than is required under the WTO, and thus export taxes should be allowed in the EPAs.

NEGOTIATION POSITIONS

Although officially the negotiations are fair and equal, the European Commission has, obviously, a much stronger position than the ACP countries. The ACP countries highly depend on trade relations with the EU, while European countries depend to a very limited extent on imports from developing countries[12]. In addition, the EU negotiates with many negotiators, including lawyers and agricultural experts while the developing countries often do not have the resources and expertise to match the negotiating team of the EU. Besides that, on behalf of the EU only trade officials and specialists conduct the negotiations and no development experts are involved. As a result, the negotiated texts fail to mention any of the developmental goals, let alone elaborate on how to reach these[13]. This lack of a level playing field results in a very weak negotiation position for developing countries. The ACP countries should be given the chance to assess the advantages and disadvantages of new developments they face to, in the end, sign treaties that they believe will serve their interests too.

And as long as the EU protects and subsidises its own industries, no fair and equal trade between the EU and ACP countries is possible. ACP countries are only able to protect certain products but are not able to protect their markets properly, while the EU keeps protecting certain sectors, especially agriculture. Agriculture is key to most ACP countries, but because of EU subsidies these countries cannot compete with EU products, and opening of the markets will result in the collapse of local markets.

UNFAIR POLITICS

The EU has committed itself to Policy Coherence for Development (PCD) which is laid down in the Lisbon Treaty, article 21 and article 208.

In article 208d of the TFEU it is stated that the EU aims to foster the sustainable economic, social and environmental development of developing countries with the primary aim of eradicating poverty. However when looking at the process of EPA negotiations and at the content of the agreements as explained above, one cannot but conclude that the EPAs are clearly incoherent with the objectives of the EUs development policy. In other words, by concluding EPAs in their current form and content, the EU is undermining its own development efforts. This is costly for both the developing countries and the EU.

WHAT NEEDS TO BE DONE?

- All elements that are not required to make the EPAs WTO compatible should be taken out of the EPAs. This requires a review of the current provisions on export taxes, and the MFN and rules of origin clauses.
- EPAs must ensure that ACP regional groups have maximum flexibility over their own market opening. The EU should therefore offer all ACP regional groups a period of 20 years or more for market opening, on an unconditional basis. Each regional group should be offered this full period. Moreover, the liberalisation scheme should be linked to development benchmarks instead of a fixed timeframe.
- The EU should cut subsidies on products competing with local products, especially in agriculture. As long as the EU subsidises its sectors, ACP countries should not be asked to liberalise tariffs on products that have to compete with EU products.
- There should be an effective safeguard mechanism for ACP countries to use if faced with a surge of subsidised EU imports.
- The EU should stimulate regional integration in all ACP regions by approaching regions as collective partners but at the same time acknowledging their differences in economic and social terms. Therefore enough policy space should be provided during the negotiations and no differentiation in terms of EPAs and iEPAs which influence the individual negotiation positions should be pushed for.
- Investment, competition and government procurement should be removed from the negotiations, unless specifically requested by an ACP regional negotiating group. It is for ACP regional groups to judge the development benefits of any agreements on these issues and the EU should not push for them to be discussed. If included, any negotiations on government procurement should be subject to transparency.
- A review mechanism for EPAs - with full ACP regional group ownership and participation - should be introduced to ensure that EPAs are delivering the intended developmental benefits.
- The Commission should be ready to provide an alternative to an EPA at the request of any ACP country. Any alternative offered should provide no worse market access to the EU than is currently enjoyed under Cotonou preferences.

November 2010

Notes

[1] Cotonou agreement, article 35(2) and 34.

[2] WTO GATT, article 24, http://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm

[3] The EPA sub regions are: Caribbean, Central Africa, East and Southern Africa, Pacific, SADC-minus, and West Africa.

[4] The African regions consist of: a West-African region (ECOWAS), a Central African region (CEMAC), East and Southern African region (ESA) and Southern African regions (BNLS).

[5] Davies R., Bridging the divide: the SADC EPA, Trade Insights, May 2008

[6] European Commission: Trade. Bilateral relations: regions. Retrieved from http://ec.europa.eu/trade/issues/bilateral/regions/acp/

[7] ACP Council of Ministers, Declaration of the ACP Council of Ministers at its 86th Session Expressing Serious Concern on the Status of the Negotiations of the Economic Partnership Agreements, Brussels, 13 December 2007; and Alternatives to EPAs if not signed? Retrieved from http://www.otal.com/ghana/epas.pdf

[8] One of these arrangements is Everything But Arms (EBA), giving the Least Developed Countries tariff- and quota-free access to EU markets. See Keck, A. (2004) Low Special and Differential Treatment in the WTO: When, Why and How? WTO Staff Working Paper; GATT Article XXXVI Para8 (1947); and Bartels, L. (2007) The WTO Legality of the EUs GSP+ Arrangement 10 Journal of Intl Economic Law 1-18 p5 PSE POSITION ON ECONOMIC PARTNERSHIP AGREMENTS (EPAs).

[9] European Parliament debate on Economic Partnership Agreements, Remarks by Peter Mandelson, Strasbourg, 22 May 2007

[10] South Centre. September 2010. EPAs and WTO compatibility A Development Perspective.

[11] South Centre. June 2010. EPA Contentious Issues Matrix: Key Problems and Some Recommendations.

[12] Commission of the European Communities, Commission Staff working paper accompanying the Commission working paper EU report on Policy Coherence for Development (COM 2007 545 final) 26-27.

[13] Stevens, C.; Meyn, M. and Kennan, J. (2008) Comparative analysis of liberalisation schedules and other commitments of the African interim EPAs, Overseas Development Institute.

FISHERIES PARTNERSHIP AGREEMENTS
EUROPEAN VESSELS VERSUS AFRICAN FISHERMAN

PHOTO: IMVF (GUINEA BISSAU)

More than 150 million people in the world depend directly on fisheries for their livelihood. Despite the potential that fisheries in developing countries have, through fisheries agreements between the EU and developing countries fish stocks are being depleted and local fishing communities are competing against subsidised and technologically superior EU vessels. More than a billion people living in 40 developing countries risk being deprived of their main source of protein and of an opportunity to fight themselves out of poverty, because of the incoherence between the EU's fisheries policy and the EU's development policy.

The fisheries sector, especially the small-scale fishing sector, could have a significant positive effect in achieving poverty reduction as well as progress towards the Millennium Development Goals. Not only is it a form of livelihood and a source of income that could pay for food, education or health care, fish is also a strategy to ensure food security. It is a source for high quality proteins and nutrients for poorer populations, and could decrease child and maternal mortality because it ensures a better health for both the mother and child. Moreover, fish production and export supports the local economies of developing countries as a whole[1]. Supporting local fisheries is thus extremely important when tackling poverty in developing countries.

As the Common Fisheries Policy of the European Union is under review and due to be reformed in 2013, the European Commission and the Parliament should take a closer look at the Fisheries Partnership Agreements and its implications for developing countries.

FISHERIES FOR DEVELOPMENT

The central aim of the current EU Development Policy, is to reduce poverty worldwide (Lisbon Art. 208). The Unions External Action has several objectives laid out in the Lisbon Treaty, including supporting human rights, fostering the sustainable economic, social and environmental development of developing countries and encouraging the integration of all countries into the world economy through the progressive abolition of restrictions on international trade[2]. All of these objectives have the primary aim of eradicating poverty.

The guiding principle of development cooperation in fisheries is to contribute to a sustainable natural environment[3]. Concerning the EU fisheries agreements, which allows EU fleets to fish in the waters of the contracting countries, the Development Policy explicitly promises that the EU will pay particular attention to the development objectives of the countries with which the EU has made or will make fisheries agreements.

In order to succeed in reducing world poverty, which is the objective of the EU Development Policy, it is important that all policy areas consider the impacts on poverty and do not obstruct development policy. In recognition of this, and in accordance to Article 208 of the Lisbon Treaty the EU made policy coherence for development (PCD) a central pillar in its effort to realise the MDGs. PCD aims at building unity between different policy areas and the EUs development objectives. By doing so, they would increase the effectiveness of development aid[4]. As previously explained, fisheries are important for development and therefore coherence between EU's policies is vital.

EUROPEAN COMMON FISHERIES POLICY AND ITS FISHERIES PARTNERSHIP AGREEMENTS

The EU holds one of the biggest fleets which fishes in all of the earth's oceans. It is the largest importer of fisheries products with a net import of over 60% and it has a seat in almost every regional fisheries management organisation[5]. This makes the EU the biggest stakeholder in the global fish market. Their fisheries policies therefore have an effect on the entire global fish sector. The Common Fisheries Policy (CFP) was adopted in 1993, remarkably with the same legal basis (Articles 32-38 of the EC Treaty) and same general objectives as the Common Agricultural Policy (CAP); i.e. to protect and benefit the EU's own fisheries and advocate economic, environmental and social sustainability. These policies do not only cover the European fishing vessels in European waters but also the European vessels in distant waters[6].

Historical overview

Since 1997, fisheries agreements with third countries have been signed in order for European vessels to fish in distant waters. The legal basis of fisheries agreements lies in the United Nations Convention on the Law of the Sea (UNCLOS) that was concluded in 1982, when the global fish talks had started to decline dramatically. This convention was adopted in order to impede countries from fishing in foreign waters after depleting their own resources. Under this law the coastal states control the ocean and its resources in the area up to 200 nautical miles from land, called Exclusive Economic Zones (EEZ). With the UNCLOS in place, about 90% of the global fishing grounds are under control of coastal states. If states do want to fish in a foreign EEZ, they need to buy the right to fish any surplus fish resources, which the owning state cannot utilise itself[7]. In the UNCLOS framework, and in accordance to the principles of the CFP, the EU concluded fisheries agreements with different third countries, many of them developing countries.

The CFP and fisheries agreements were fiercely criticised for their promotion of unfair trade, subsidising EU fleets directly and indirectly and for being too short term with their policies, drastically damaging the environment and over-exploiting their own as well as foreign fish resources[8]. Therefore in 2002 the CFP as well as the fisheries agreements were reformed to be more long term (sustainable) and to phase out subsidies. The traditional fisheries agreements, mostly based on the principle of "pay, fish, and go", meant to be changed to a more comprehensive and cooperative approach[9]. The partnership in fisheries "partnership" agreements (FPA) was added. The stated objective was to strengthen partner countries capacity to ensure sustainable fisheries in their own waters.

The objective of the 2002 FPAs was threefold; 1) to create opportunities for the European fleet, 2) to supply fish to the European market, 3) to promote sustainable fisheries in the contracting state [10]

Despite the reforms made in 2002 (as explained in box 1), the CFP and the FPAs have not made much progress. The CFP and FPAs are more harmful than ever before due to even lower remaining fish stocks. Currently there are 20 EU FPAs with countries in Africa and in the Indian and Pacific Oceans. The most important FPAs for the EU fishing sector are with Mauritania, Morocco and Guinea-Bissau. Most of these contracting countries have been losing out, being a weaker party within the agreement negotiations, due to their dependency on EU cooperation for economic survival. In at least two countries, Mauritania and Guinea-Bissau, the governments are currently almost completely dependent on the income from FPAs [11]. The fishing communities in these third states are the biggest losers within the FPAs because they see very little from the FPA funds and their fish stocks are being depleted by large EU fleets. Furthermore they cannot compete with the foreign competitors, whose fees and fuel taxes are being paid for, and whose technological advancements are being subsidised[12]. All in all the critiques on the CFP continue.

UNFAIR POLITICS

Although development has become a clearer objective since the reforms in 2002 and improvements have been made, the FPAs remain based on the commercial relationship between seller and buyer and remain incoherent with international law and development policy. Local and small-scale fishing communities do not receive priority access, as they should according to the FAO Code of Conduct for Responsible Fisheries [13], and they are still facing difficulties competing with subsidised EU vessels that overexploit the fish stocks available, despite their potential to combat poverty. In addition, new non-tariff barriers have been introduced that are making export to the EU almost impossible for developing countries. Without extra technical assistance to comply with criteria of the EU market or efforts in promoting good governance concerning the fishing sector, the EU is forgetting about the third objective of the FPAs, namely to promote sustainable fisheries in the contracting state.

The EU fisheries policy does not include any incentives to encourage ship owners to avoid overexploitation or threaten species. In short the main problem is a lack of knowledge and a lack of control [14]. Considering the lack of knowledge: the UNCLOS clearly states that agreements can be made in waters that are not exploited, but little research is done prior to the conclusions of FPAs on whether the resources have not already been overexploited. The scientific knowledge that does exist, is not taken into account when making political decisions (in 2008 for example, the catch limits agreements were on average 48% higher than scientific advice)[15]. With fish stocks being depleted and unfair competition, millions of people are being pushed into further poverty. On the lack of control: the EU CFP has many regulations about the size of the vessels, the amount of vessels and the amount of fish that can be caught. Nevertheless, these European regulations are not applied or penalised. There is widespread illegal, unreported and unregulated (IUU) fishing activity in the EEZs of developing countries[16].

Furthermore, fisheries relations are not only formed through fisheries agreements. Negotiations of EPAs determine the design of political relations and in turn also how fisheries will be managed and who will benefit. For example raw materials are important for the EU fisheries industry, therefore the EU is trying to limit the possibilities for African countries to impose export taxes. In this way they can indirectly make it even cheaper for themselves to exploit the fish resources in contracting states. Unlike the EPAs, the FPAs are negotiated on a bilateral level, which leaves the developing countries with even less bargaining power than usual[17]. Due to their dependence on FPA income and good relations with the EU in general, developing countries are quick to agree to less than they deserve. The ACP position on the Common Fishery Policy declares that the compensation paid by the EC is generally considered inadequate compared to the value of the fisheries resources to which EU fleets have access[18]. Better coherence is needed between the different instruments used by the EU to form its fisheries relations with contracting states. Fisheries agreements should be agreed upon in a regional framework, based on the EU Coherence principles and the development goals for an environmentally, socially and economically sustainable development for fisheries communities in developing countries[19].

Article 53 of the Cotonou Partnership Agreement states that “the Parties declare their willingness to negotiate fishery agreements aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP states”. In the next CFP that will be reformed in 2012, the policies need to not only be coherent for development on paper, as the green paper shows promising progress for, but also in practice. In accordance to the Cotonou Agreement as well to EU as Development Policy, the fisheries and trade policies need to be mutually satisfactory and combat poverty by supporting the development of an environmentally and socially sustainable local fisheries sector in the third countries.

Promising words; The Green Paper on CFP reforms

With all the criticism on the CFP, the European Commission published a Green Paper in 2009, on the reform of the CFP in 2012. It mainly questions the two first policy objectives (to create opportunities for the EU fleets and to supply fish to EU market) as well as emphasises the importance of the third objective. It expresses its concerns with internal as well as external failures of the CFP of 2002. Externally it expresses its concerns in lack of compliance to EU policies of EU fleets, but also emphasises that the external fisheries policies should better take into account the food security strategies of third countries. The paper asks some open questions to all stakeholders and leaves space for an open discussion and suggestions on the future of the CFP.

The responses to the Green Paper, from Civil Society, the EU parliament and ACP countries, were generally positive:

Civil Society very much appreciated the observations and acknowledgement in the Green Paper of the harms done to developing countries as well as the difficulties for the European fishing sector within the current framework and fisheries policies of the EU. In response to the paper, Civil Society further stresses the importance of knowledge for improvement. The politicians need to make their decisions strictly based on scientific evidence; it is unacceptable that the EU does not take responsibility to research whether there is abundance of fish before signing agreements in accordance to the UNCLOS. Consumer in Europe also needs to be better informed on the fish that they buy. Promotion, labelling and ensuring fair prices for fish that is caught in a environmentally and socially sustainable way could raise the value of the fish, supporting the EU vessels that fish sustainably. Civil Society also pushes for the introduction of strict conditions for access to third countries waters: access should be restricted to those operators who can demonstrate that their operations fit with EU sustainable fisheries development criteria. In line with the FAO Code of Conduct for Responsible Fisheries, priority access must be given to small scale fisheries. Finally and most importantly, subsidies also have to be abolished because they are not helping any side of the industry[20].

The European Parliament also welcomed the EC's initiative for submitting the Green Paper. The Committee on Fisheries responded by writing their own report on the Green Paper, which was adopted on the 27th of January 2010. This paper focussed on how to ensure the long-term sustainability and viability of fisheries. Although there is little focus on the effect on developing countries they do highlight the importance of an environmentally sustainable and socially fair fisheries sector, internally and externally, and that the CFP must be in line with EU external policy (which includes development policy). Concerning FPAs, the Committee on Fisheries explains their importance for the promotion of international sustainability, enhancing local employment in the sector, reducing poverty levels and hence reducing the number of immigrants to the EU[21]. The report calls for more transparency and that partnership agreements should be negotiated on a sound scientific basis.

The ACP countries are concerned with the different management and control regimes for EU fleets than those enshrined in national laws[22]. EU operators are not reporting catches and they are not getting sanctioned by their Flag States when laws or codes of conduct are broken. The IUU practices by some EU operators in ACP waters need to be controlled in the future. ACP countries also worry about continuation of unfair competition with subsidised and technologically superior EU fleets. ACP countries clearly expressed their concerns for their own local fisheries and stressed how the resources are of strategic significance to their societies and economies. They urge the EU to consider some points when debating the CFD reform. The importance of scientific information in future agreements and the importance of combating unsustainable and illegal fishing activities are two examples. Finally, ACP Countries respond to the Green paper with concerns for new non-tariff barriers to ensure sustainable fishing, like eco-labelling or other conditionality to access the European markets[23].

CONCLUSION

While the debate concerning the CFP and the future of the world's fisheries is presently heated, issues like environmental as well as social sustainability are high on the agenda. The EU is showing willingness to deal with the incompetence of the present CFP and its FPAs and the current incoherence between the EU Development Policy, the fisheries policy and reality.

There are no effective legal possibilities for the EU or its Member States to forbid businesses from running their own operations in countries outside of the EU, and it is probable that private settlements would be agreed if the EU would retreat itself from FPAs. If this was to happen, transparency and public control would be even less likely, therefore it cannot be denied that fisheries agreements are important and should stay in place. But with the reform of the CFP in 2012 some extreme changes need to be made in order for the agreements to be mutually satisfactory for all stakeholders, most importantly for the small-scale fishers in developing countries in order to combat poverty. In line with the current debate, the following box presents some recommendations regarding changes that could be included in the CFP reform.

WHAT NEEDS TO BE DONE?

- In order to improve PCD, the negotiations of fisheries agreements must be based on the contracting country's priorities for suitable development of its fishing sector and its country as a whole (food security strategies for example).
- Conditions and prioritisation needs to be introduced for access to third countries waters; Iin line with the FAO Code of Conduct, priority access should be reserved for the national fleets, especially small scale and artisan fishing activity. Further access should be restricted to those operators who can demonstrate that their operations comply with the EU sustainable fisheries development criteria.
- The EU should respect the surplus principle as concluded in the UNCLOS; the EU should not fish in countries where a surplus is not proved and the prevention of overexploitation cannot be guaranteed.
- The EU should step up efforts and provide the necessary resources to help contracting countries develop more effective national resource management systems in order to prevent overexploitation.
- The EU should ensure better adherence to laws and codes of conduct of EU fleets. Illegal, unreported and unregulated (IUU) fishing must be tackled.
- In accordance to the Cotonou Agreement as well as EU Development Policy, the fisheries and trade policies need to be mutually satisfactory and combat poverty by supporting the development of an environmentally and socially sustainable local fisheries sector in third countries.
- EU fisheries subsidies, directly or indirectly need to be phased out where they are proven not to be socio-economically profitable for any of the stakeholders. The EU should raise the price of fishing licences to its fleets and technological progress of the vessels needs to finance itself through the market, in order to abort any hidden subsidy that hurts poor fishermen.
- Fisheries Agreements must be negotiated, concluded or extended based on a scientific basis and reliable data. The reviewed CFP should define a decision-making framework ensuring that decisions are taken at the appropriate levels (maximum sustainable amount of catch and total allowable catch need to be set by scientists for example).

June 2010

Notes

[1] Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

[2] Lisbon Treaty Art. 208.

[3] Communication from the Commission to the council and the European Parliament: Fisheries and Poverty Reduction, Brussels, COM (2000) 724; p.3.

[4] European Commission, Policy Coherence for Development: accelerating progress towards attaining the Millennium Development Goals, COM (2005) 134.

[5] OCEAN 2010 contribution to Parliamentary Hearing on the CFP Reform, 1 December 2009.

[6] Europa Glossary, Common Fisheries Policy, retrieved in March 2010 from: http://europa.eu/scadplus/ glossary/fisheries_en.htm

[7] UN, United Nations Convention of the Law of the Sea of December 1982, Part V: Exclusive Economic Zone.

[8] ADE, Evaluation of the Relationship between Country Programmes and Fisheries Agreements, Final Report (2002).

[9] Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

[10] EC, On an integrated framework for fisheries partnership agreements with third countries, COM (2002) 637.

[11] Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

[12] ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decmeber 2009.

[13] FAO, Code of Conduct for Responsible Fisheries, 1995, 1996, 2000.

[14] European Commission, EUs Green Paper: Reform of the Common Fisheries Policy, Brussels COM(2009) 163, p.21.

[15] OCEAN 2010 contribution to Parliamentary Hearing on the CFP Reform, 1 December 2009

[16] A report by the fishersubsidies.org reported that the EU is heavily guilty of subsidising vessels guilty of IUU fishing (http://fishsubsidy.org./infringements).

[17] Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

[18] ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decmeber 2009; p.2.

[19] Regional FPAs are difficult to implement because of allocation of financial compensation for the FPA is problematic. Furthermore, one does need to be cautious of regional FPAs because local civil society has more difficulty giving their input. It is therefore less democratic (Béatrice Gorez, CFFA).

[20] Coalition for Fair Fisheries Arrangements, Comments on the Green Paper for the Reform of the Common Fisheries Policy, December 2009.

[21] Paragraph 124 and 128 in the report of the PECH Committee on the Green Paper on the Reform of the CFP.

[22] ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decmeber 2009; p.2.

[23] Ibid.

FISHERIES IN CAPE VERDE

The EU is the main trade partner, investor and multilateral donor of Cape Verde; therefore, the relations with this bloc have a fundamental importance for the country's economy. In 2009, the exports of fishing products represented 66% of total Capeverdian exports, being Spain the main destination.

The first bilateral tuna agreement with the EU dates back to 1991. From 2000 to 2003, the EU embargo to Capeverdian fishing products, due to insufficient sanitary conditions, strongly affected the country's exports, but also boosted some improvements in storage and handling of the fish. On 19 December 2006, the Council adopted Regulation (EC) No 2027/2006 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde; a new protocol providing EU vessels – from Spain, France and Portugal – with tuna fishing opportunities in the Capeverdian waters was negotiated and is applied as from September 2011.

It is positive to have an agreement between the EU and Cape Verde, as opposed to the unregulated activities of other operators (e.g. China). Theoretically, the agreement for tuna fishing, which is a migratory species that Cape Verdean vessels have little ability to fish, would not have major impact in the local fisheries sector. However, the scenario is much more complex.

First, the main problem is not so much the content of the agreement, but its implementation, since the supervision and monitoring of it has revealed almost impossible. The phenomenon of illegal fisheries and non-reporting (or under-reporting) of fisheries is not known, but may be considerable, given the vast Exclusive Economic Zone of Cape Verde and the fact that vessels land in West African ports.

Second, there is no updated scientific knowledge on fishery resources available, or the impact of foreign fishery on those resources, which raises concern over shark captures reported by fishery associations and the alleged violations of the exclusive area of 12 miles by foreign vessels. A better analysis and understanding of these elements could contribute to eliminate some negative perceptions and differences of opinion about the agreement with the EU.

In addition, much more can be done in using the agreement to develop the local fisheries sector and fulfil its potential as a strategic vector of the economy. The sector's problems are well known, including the need for improvement in the inspection (which could be improved by using the fishermen in foreign vessels and training a body of inspectors); the urgent modernisation of the local fleet, the need for improved fish handling practices, as well as a stronger capacity of conservation and storage. In this respect, the use of EU funding for the exploitation of fishing resources, that Cape Verde is committed to allocate 100% to the sector's development, could benefit from better planning and prioritisation, with concrete targets and timings, within a more regular dialogue with the EU. In addition, the question of supplying the local canning industry, which is currently forced to import fish, is currently absent from the EU-Cape Verde dialogue and could be properly addressed within these agreements.

TRIPS & ACCESS TO MEDICINES
A CHOICE BETWEEN PATENTS AND PATIENTS!

PHOTO: IMVF (SÃO TOMÉ AND PRÍNCIPE)

Every year, 14 million people in developing countries unnecessarily die of poverty-related and infectious diseases, such as malaria, diarrhoea, tuberculosis and HIV/AIDS. The required medicines often exist, but the patients in developing countries simply cannot afford them, due to the patents on these medicines. There is little coherence in policies when the EU's development policy prioritises access to affordable medicines for developing countries, while at the same time, the EU's industrial and trade policy delays or complicates the access to developing countries markets of affordable medicines. Even the last Commission report on PCD ignores the risks in this field and the potentially damaging trade policies of the EU. Instead, it proposes to focus on synergies and claims that Intellectual Property Rights (IPRs) are a tool for development.

The fact that medicines are prohibitively expensive for many people in developing countries is partly due to patents on medicines. More than 96% of these patents are held by companies in Western countries. According to the pharmaceutical industry, patent protection is necessary to enable research into new drugs, which is costly and needs to be recouped. A patented drug cannot be manufactured by others than the patent holder without the latter's explicit consent. Thus, in order to stimulate innovation, drug prices are substantially increased by an artificial monopoly of many years. Innovation - and in particular that needed to serve developing countries needs, such as in tropical diseases (for which there is no financial incentive to Western pharmaceutical industry that dominates the research agenda) has been lacking however.[1]

While patents on medicines bring little benefit to developing countries, they do keep existing medicines out of reach for the poor concludes the World Health Organisation.[2]

Medicine spending in developing and transitional countries constitutes up to 60% of all spending on health, which is much more than in OECD countries. In addition, these OECD countries have not only more public provision of medicine, but also price regulation of pharmaceuticals in the private sector that developing countries do not have. Instead prices of medicine in the latter are often so high that a large part of the population lacks access to them. There is a tension between the need to protect intellectual property rights and the need to ensure the availability and affordability of medicines.[3]

And whereas there is not only large consensus that increasing IPR further does not benefit developing countries more and more alternatives to the traditional patents are being developed in the world, the EU and others still aim to increase patent protection that already faces high standards with the ratification of the Trade Agreement on Trade Related Aspects of Intellectual Property (TRIPS) in 1995.[4]

INTERNATIONAL DEVELOPMENTS IN INTELLECTUAL PROPERTY REGIMES

Since January 2005, all WTO members (except the LDCs, which are allowed to wait until 2016) are obliged to adapt their national patent legislation to the minimum standards of the TRIPS Agreement. These minimum standards result in a higher level of patent protection and at the same time significantly hamper the availability of cheap, generic medicines to the poorest, owing to the impediments to non-brand competition. The agreement was met with much protest from civil society and it is said that developing countries were disappointed in what they got in return for accepting this deal. TRIPS is often viewed as representing the interests of OECD countries (pharmaceutical) industry.[5]

In response to this, the Doha Declaration on TRIPS and Public Health of 2001 was to strengthen the importance of public health over IPR and specified flexibilities in order to achieve this. The compulsory license as a waiver to produce a generic (copy) version of a patent holding medicine, would now also allow developing countries without production capacity to import these in case of a national health emergency. Unfortunately not all countries have ratified this amendment however and in practice the waiver has turned out difficult if not impossible to use and only one developing country, Rwanda, has called upon it in a transaction with Canada.[6]

After TRIPS, first the US and later also the EU have pursued more stringent clauses on IPR in many bilateral (and bioregional) trade agreements, including with developing countries. Contested examples exist for South America, where the trade negotiations with the US in 2006 led to a split within the regional bloc and were strongly criticised by civil society from both sides, in particular for high demands in IPR. The EU, that was expected to be more social in its demands, actually went beyond both TRIPS and the US demands and was criticised for thus jeopardising access to health.

Besides the WTO and bilateral negotiations on IPR protection, there is an increased focus of developed countries, such as the EU, on enforcement of IPR. Whereas nothing is wrong with protecting your citizens from truly counterfeit (deliberately mislabelled) medicine, the framework currently being developed could lead to extraterritorial enforcement of IPR (that are territorial by origin). Running the risk of increasing space for seizures of legitimate generic medicine in transit and hampering trade in general (including between developing countries). One way in which it does this, is by empowering customs officials, this led to the seizures of generic medicine in 2008 and 2009,[7] which of course negatively affect access to medicine in developing countries. Within this broader framework, the Anti-Counterfeiting Trade Agreement (ACTA) is an initiative of developed countries to set the guidelines for an international regulatory framework for enforcement. Unfortunately the process of ACTA, has until just recently taken place in full secrecy, excluding both relevant Commission departments, such as DG Development, and the European Parliament as well as civil society from any information.[8]

EU TRADE & IPR POLICY

The European Union was one of the architects of the TRIPS Agreement. By favouring the highest international intellectual-property standards in its trade policy it seeks to protect domestic industry at the expense of people in poor countries. Until 2006 it did not actively or aggressively seek to strengthen international intellectual-property standards outside of WTO negotiations.

In the last few years however the EU has been pursuing TRIPS plus commitments of third countries, including developing countries. Among its trade goals the European Commission now explicitly states that the EU should seek to strengthen IPR provisions in future bilateral agreements.[9] This is demonstrated in the demands made in the Andean negotiations discussed below as well as the agreement with CARIFORUM, in which IPR provisions are said that they can in no way be considered as aimed at sustainable development for ACP countries. Rather, they almost exclusively reflect the EU's mercantile interests, as expressed in its Global Europe Strategy.[10] Others speak of a substantial burden for developing countries with adverse consequences for public health.[11] In its bilateral negotiations the EU is even said to put pressure to prevent developing countries to use compulsory licensing, such as with Thailand.[12]

The EU is particularly interested in increased enforcement of IPR and pushes for criminal punishment and border measures in case of alleged infringing of IPR in multilateral, bilateral and the Anti-Couterfeiting Trade Agreement (ACTA). In the meanwhile EC customs regulation (1383/2003) has resulted in extraterritorial enforcement of IPR and led to seizures of legal generic medicines in transit and is considered trade restrictive and easily abused.[13] By trying to export this regulation through FTAs, the EU is paving the way for seizures also in developing countries and impeding generics trade in general.

BILATERAL AND BIOREGIONAL NEGOTIATIONS: THE ANDEAN EXAMPLE[14]

Since September 2007, the Andean Community of Nations (CAN) and the EC have been negotiating an Association Agreement (AA) based on three pillars: cooperation, political dialogue and trade. Partly due to disagreement on IPR however, this bloc fell apart and the EU decided to continue with the more willing Peru and Colombia on the basis of only a free trade agreement (excluding the other pillars).[15]

IPR was an important factor in this split, as the countries involved, and developing countries in general, often have very different approaches and capacity in this field. Considering the EU's commitment to regional integration, this push for including sensitive issues such as IPR despite these consequences is highly incoherent in itself.

After this split the EU revealed its demands in IPR, these appeared to be very high and contentious, especially considering the large poor populations that these countries inhabit, while failing to make any commitments to technology transfer. Below an overview of the EU demands in this specific example of the EU- CAN agreement.

General Approach/Provisions

The objectives of the general provisions on Intellectual Property (IP) almost exclusively adopt the position of IP holders. This severely limits any interpretation of the treaty that allows for the protection of public health. Furthermore, the ECs proposal limits the ability of the CAN countries to use certain TRIPS flexibilities. For example, the European proposal avoids the TRIPS reference to the freedom to establish "the appropriate method of implementing the provisions of this Agreement within their own legal system and practice."

A reference is made to the Doha declaration, but at the same time such strong potential legal barriers to this (as outlined below) are proposed that this looses its strength and credibility. Instead specific exceptions (such as for compulsory licensing) need to be explicitly mentioned within those provisions in order to ensure commitment to Doha, as well as allow for export of these to developing countries that do not qualify as LDCs.

Patents

The article on patents (article 9) extends obligations to comply with international treaties that were not foreseen in the TRIPS Agreement. It was also demanded that patent monopolies would be extended with supplementary protection certificates (SPC).

Data protection

In practice, data protection is an additional monopoly of the product owner. Whereas TRIPS does not provide for this, the EU has proposed to introduce up to 11 years of data exclusivity, which is more than the 5 years the US demanded and was criticised for.

Enforcement

Provisions on enforcement are the main focus of the chapter on intellectual property,[16] reflecting the main priority of the EC. Not only does the EC go beyond TRIPS, relinquishing the flexibility on enforcement,[17] but even beyond current Community law (EU Plus). The EC proposed to extend criminal sanctions to all IP infringements, something that the European Parliament refused in the well-known IPRED2. Border measures, that we have seen can hamper trade in generic medicine, were also an important part of the demands on enforcement.

Impact studies

Estimated impacts of fulfilling these demands in patent and data protection in the case of Peru (defined using WHO guidelines) showed strong price rises and increase in pharmaceutical expenditure that is estimated at 459 million USD in 2025, particularly hindering access to new pharmaceutical products (a consumption decrease of 11%).[18]

The EU's own trade sustainability impact study only came out in July 2009 and has received little attention since.

Fortunately, due to strong public pressure in Peru and Colombia, most of these demands were not accepted. The EU demands are very relevant though as they are indicative of the offensive interests of the EU (and its pharmaceutical companies) and are expected to arise in following negotiations as well.

Also European Voice (3/12/2009) in the fact sheet trade gone wrong considers Peru as a legendary warning what developing countries should look out for when they discuss trade in medicines.

UNFAIR POLITICS ON MULTIPLE FRONTS

In the Lisbon Treaty (art 208), the EU has committed itself to Policy Coherence for Development, which means that other fields of policy making should be in line with commitments made in development. We will see however that the policies outlined above for trade and IPR do not match well with the Health and Development commitments explained below.

The Millennium Development Goals

Health is one of the priority areas of the MDGs adopted by the United Nations in 2000. The EU is committed to reduce by two thirds the mortality rate among children under five (MDG4) and halt the spread of HIV/AIDS, malaria and other major diseases (MDG 6) before 2015. Access to essential medicines is crucial to attaining these goals. In both its health and development policies, the European Union stresses the importance of improved healthcare for economic growth and development. The European Commission recognises that the price of essential medicines is one of the major obstacles to improved health and access to healthcare for the poorest people in developing countries.[19]

Global Strategy & Plan of Action on Public Health, Innovation and Intellectual Property (GSPA)

In May 2009, the EC committed itself to the GSPA, adopted by the World Health Assembly. Government delegations recognised that market-driven research and development (R&D) must be supplemented with additional incentives for needs-driven research and development, and that those initiatives need to ensure that these advances are affordable and accessible to developing countries. The GSPA, devotes considerable attention to IPRs and their impact on public health, pointing out the worrying practice of overreaching IPR protection clauses negotiated in bilateral FTAs. In adopting the GSPA, the EC abided to the protection of public health over commercial interests. In its Action Plan to combat HIV/AIDS, malaria and tuberculosis,[20] the EU also explicitly prioritises access to essential medicines.

The Doha Declaration

The Doha Declaration signed by WTO Members in 2001 reaffirmed the importance of upholding TRIPS flexibilities to protect public health;

We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the

Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all. In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

The EC has also committed itself to the Doha Declaration of 2001. While quoting the Doha Declaration, we have seen the EC bilateral proposals such as with the Andean countries could establish legal barriers, failing to meet the spirit of the text.

Recommendations of the Parliament in its 2006 and 2007 Resolution

The following recommendations feature in resolutions given to the EC by the European Parliament:[21] i) Using negotiating guidelines on development cooperation designed to achieve MDGs, including the protection of public health, ii) ensuring coherence of development policies in line with the principle enshrined in Article 178 of the EC Treaty (now 208 Lisbon), iii) granting high priority for greater access to education and health, iv) fostering regional integration by negotiating bloc by bloc.

Clearly, these recommendations are in conflict with the ECs stand on limiting TRIPS flexibilities and the one-sided perspective of IPR holders. The European Parliament pointed out the importance of fostering regional integration in the CAN through the Association Agreement. Clearly the opposite happened and bilateral negotiations grant the EC greater bargaining power and are likely to result in the adoption of more stringent IP provisions.[22]

On July 12th, 2007, the European Parliament resolution on the TRIPS Agreement and access to medicines (P6_TA(2007)0353), was adopted, urging the EC not to demand for TRIPS plus provisions in bilateral agreements. The EP should be aware of how these negotiations are being conducted and, in particular, the process through which IP rights are being upheld, which conflicts with the recommendations given by the EP to the Commission.

DG competition report[23] & internal health policy

Following an inquiry on conditions in the pharmaceutical sector and ways to improve access to safe, innovative and affordable medicines within the EU, a strong DG competition Communication came out in 2008. The report showed the anti-competitive conditions present in this sector and the variety of ways in which drug companies delay the introduction of generic versions of their commercial medicines. This leads to higher prices and less patients being helped, while at the same time innovation is limited. High scrutiny of the sector will follow to protect EU citizens. If this is important internally, shouldn't these same practices be prevented outside the EU, and in particularly in developing countries, as well? Instead power and manoeuvring space of these pharmaceutical companies is increased with the trade and IPR policies described above.

The 2nd biannual report on PCD in comparison to the 1st

The European Commission as becomes apparent in the 2009 biannual PCD report, refuses to admit that they are being incoherent with development by demanding stronger commitments to IPR in negotiations with developing countries. Instead, they consider this approach coherent with development as they view IPR as a tool for development as it would enhance innovation and technology transfer. This has not only often been proved wrong by several studies[24] but also shows from the historical development of the EU itself, without any IPR protection in place. In addition, strengthening and enforcement of IPR are very costly to developing countries that also end up net payers of royalties on IPR almost fully owned by developed countries. Risks that were acknowledged in the PCD report of 2007[25] seem now largely ignored or denied.

CONCLUSION

Rigid IP regulations and enforcement restrict and delay generic competition, thereby increasing the price of medicines or keeping the prices high, negatively affecting access to medicine, especially in countries with large poor populations. In theory, commitment to Policy Coherence for Development (PCD) should compel the European Commission to recognise developing countries and public health interests also in its trade and IPR policies. Yet, the pursuit of high IP standards, including patent extensions and data protection, and strong enforcement measures through different channels remains a consistent part of EC trade policy.

The TRIPS-plus and extra standards secure and extend monopolies for brand name pharmaceuticals, allowing companies to charge monopoly prices and reap huge revenues. These commercial benefits are gained at the expense of the well-being of populations in developing countries with poor resources. Generics play a vital role in lowering medicine prices and raising public health standards and should therefore be promoted.

Strengthening of IPR in developing countries should not be a goal in itself as the rationale behind this and promoted by the EC - is highly doubtful, whilst large risks are present. The EU should not demand any TRIPS plus commitments or introduce stringent border rules, especially where public health can be negatively affected. Instead, developing countries should be supported in their use of TRIPS flexibilities and other, more effective, ways to stimulate innovation and promote transfer of technology should be explored and promoted.

WHAT NEEDS TO BE DONE?

- In its trade and industrial policies, the EU should take account of its development and public health commitments. Possible impact on developing countries of actions in the trade and industry domains should be assessed thoroughly and impact studies of civil society should be taken into account in a serious manner. The current belief in IPR as a 'tool for development' and the policy coherence in this field should be reassessed objectively and discussed with civil society in a transparent manner.
- The European Union should refrain from pursuing the inclusion of TRIPS+, WTO+ and even EU+ provisions designed to protect intellectual property rights in any bilateral or multilateral trade agreements with developing countries (including those not defined as LDCs).
- The EU should not limit, and instead encourage, the efforts of developing countries to use (TRIPS) flexibilities as a public health strategy. In addition it should lobby for the compulsory licence for developing countries without production facilities to be made valid for all similar countries at once (including non-LDC developing countries) and (considering the limits) for other initiatives to be developed, such as patent pools. The EU should actively stand up to European pharmaceutical companies that try to limit the use of compulsory licensing in developing countries.
- The EU should ensure its interests in enforcement and developments in ACTA will not hamper trade in generic medicine or lead to any more seizures of these. In particular it should not demand adoption of current EU or EU+ enforcement rules, such as border measures, to be introduced in developing countries.
- The European Parliament should adopt a Resolution on these recommendations with a view to affirming the EC's commitments to Health and Development, as well as demand its right of access to all negotiation documents (such as ACTA) and the use of co-decision power to prevent the EU from pursuing agreements that can damage public health.

•••

The following policy recommendations are more specific to bilateral agreements and negotiations:

- The negotiated text on IP should be coherent with, and refer to the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property.
- The EC should not demand TRIPS plus provisions, especially where likely to affect public health such as patent extensions, data protection and enforcement rules.
- There should be reference made to the Doha Declaration relating to all IP provisions in the text, truly ensuring policy space for using compulsory licensing.
- The proposed text of the agreement should emphasise that IP enforcement measures should not divert resources away from other priority areas, such as health protection.
- Not to push for such sensitive issues that are likely to cause regional disintegration as apposed to the integration the EU has committed itself to.

March 2010

1 'tHoen, E. (2009) The Global Politics of Pharmaceutical Monopoly Power, Creative Commons.

2 WHO, Commission on Intellectual Property Rights, Innovation and Public Health (December 2006).

3 OECD, Policy Brief on 'Health: Improving Policy Coherence for Development', October 2009.

4 TRIPS agreement http://www.wto.org/english/tratop_e/TRIPS_e/t_agm0_e.htm

5 Sell, S.K. (2006) Big business, the WTO and Development. In: Stubbs, R. & Underhill, G.R.D. "Political Economy and the Changing Global Order". Oxford University Press.

6 Because of its complexity and lack of clarity – e.g. a country is required to have attempted to strike a deal with a patent-holder for 'a reasonable period' at 'a reasonable commercial' price, neither of which is specified. The case of Rwanda was said to show the power of the brand pharmaceutical to set the conditions as well. http://ictsd.org/i/news/bridgesweekly/6556/ September 2007

7 HAI Europe & Oxfam International, Trading Away Access to Medicines: How the European Commission's trade agenda has taken a wrong turn, October 2009.

8 Ibid.

9 European Commission, Global Europe: competing in the world. EC Policy Review (4 October 2006). http://ec.europa.eu/trade/issues/sectoral/competitiveness/global_europe_en.htm

10 Centre for International Environmental Law Intellectual Property in European Union Economic Partnership Agreements with the African, Caribbean and Pacific Countries: What way Forward after the Cariforum EPA and the interim EPAs? April 2008.

[11] according to law professor Frederic Abbott in the article of June 6, 2007 on EU Urged To Back Poor Countries' Use Of TRIPS Flexibilities on intellectual property watch http://www.ip-watch.org/weblog/2007/06/06/eu-urged-to-back-poor-countries-use-of-TRIPS-flexibilities/

[12] HAI Europe & Oxfam International, Trading Away Access to Medicines: How the European Commission's trade agenda has taken a wrong turn, October 2009.

[13] Seuba, X. Border Measures Concerning Goods Allegedly Infringing Intellectual Property Rights, ICTSD 2009.

[14]]Largely based on: Seuba, Xavier, Health Protection in the new Association Agreement between the Andean Community and the European Community in light of its provisions concerning Intellectual Property and Recent Experiences, Executive summary, p.V.

[15] Such a split also occurred – and was strongly criticised - in the agreements between the EC and ACP countries. As Peru and Colombia were expected to accept the European proposals without raising significant objections in problematic areas such as intellectual property in exchange for a more open European market, whereas Ecuador and mainly Bolivia were very critical in this field and wanted to exclude the whole issue.

[16] In this regard, the EC exports the contents of the European Directive 2004/48/EC and the European Regulation 1383/2003.

[17] The TRIPS Agreement, in article 41.5, states that it "does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of Members to enforce their law in general. Nothing in this Part creates any obligation with respect to the distribution of resources as between enforcement of intellectual property rights and the enforcement of law in general."

[18] IFARMA "Impact of the EU-Andean Trade Agreement on Access to Medicines in Peru", 2009.

[19] Communication from the Commission of 20 September 2000 to the Council and the European Parliament on accelerated action targeted at major communicable diseases within the context of poverty reduction.

[20] Communication from the Commission to the Council and the European Parliament dated 21 February 2001.

[21] P6_TA(2007)0080, http:www.europarl.europa.eu/sides/getDoc.do?pubRef=-EPTEXT+TA+P6-TA-2007-0080+0+DOC+XML+V0EN&language=EN

[22] Xavier Seuba, idem.

[23] DG Competition, Executive Summary of the Parmaceutical Sector Inquiry Report, 2008. Also: press article 'Antitrust: shortcomings in pharmaceutical sector require further action' see http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1098

[24] Stiglitz, J.E. (2006) Making Globalization Work. Norton, New York; Katz, J. (2001) Structural reforms and technological behaviour: The sources and nature of technological change in Latin America in the 1990s , Research Policy 30(1), pp 1-19; Chang, H.J. (2001) Intellectual Property Rights and Economic Development: historical emerging issues, Journal of Human Development, 2(2), pp 287-309.

[25] European Commission report on PCD, November 2007.

IMAGES & FACTS ON PCD

PHOTO: NENI GLOCK (HUAMBO, ANGOLA)

Migrations

A European policy mostly serving European interests is clearly inconsistent with the European Union development policy itself. The "Blue Card" Directive was designed to attract high-skilled professionals to Europe, turning it into the most dynamic and competitive knowledge economy of the world.

Thus, this directive fosters a brain drain that affects the ability of developing countries to achieve the Millennium Development Goals. On the other hand, low-skilled workers from developing countries can hardly migrate – this is a highly selective and unfair system.

PHOTO: EMANUEL RAMOS (GUINEA-BISSAU)

Fishing

Fishing is a crucial sector of the economy for many developing countries, as well as a source of livelihood for many poor communities. Fishing has also traditionally been an important sector for many EU member states. With fish stocks depleted in most EU waters, European vessels fish increasingly in territorial waters of developing countries, after signing partnership agreements on fisheries in exchange for financial compensation. This is an unfair situation revealing the purely commercial interests inherent to Economic Partnership Agreements.

PHOTO: NENI GLOCK (ANGOLA)

Trade

Economic Partnership Agreements (EPAs) between the EU and its partners in Africa, the Pacific and the Caribbean (ACP Countries) were initially designed to integrate a development policy with a commercial policy. However, it is obvious today that the content of the agreements is only determined by commercial interests, turning EPAs into free trade agreements and resulting again in the opening of new markets for EU products. Development assumes once again a secondary role, so EPAs, as currently presented, are not consistent with the development policy.

PHOTO: NENI GLOCK (ANGOLA)

Social Dimension of Globalization

Increasing the social dimension of globalization is an imperative to ensure maximum benefits for all, men and women. The global EU objective should be the promotion of decent working conditions and work for all. In light of the world economic crisis, the social dimension of globalization becomes even more important for development and poverty reduction. It is vital to raise the level of social protection, to finance social security networks and to use the decent work agenda as tools to fight against the crisis.

PHOTO: IMVF (SÃO TOMÉ AND PRINCIPE)

Innovation and Research

The research policy of the EU has contributed decisively to the development in areas such as health and food security, namely through the funding of research projects. However, the participation of researchers from developing countries remains low. One of the biggest barriers to their participation in research cooperation is the limited capacity to do so, as well as the lack of adequate infrastructure. It is therefore crucial to improve the research capacity of these countries, providing equal opportunities and an effective contribution to innovation in developing countries.

PHOTO: IMVF (GUINEA-BISSAU)

Information Society

Research and development (R&D) contribute to economic growth and job creation. New technologies also help to cope with social challenges such as poverty, health and environmental degradation. The establishment of partnerships between the EU and developing countries in the field of innovation and research is therefore vital to the achievement of the Millennium Development Goals.

PHOTO: TINIGUENA (GUINEA-BISSAU)

Transports

An efficient transport network is a key element in promoting competitiveness, economic growth and social development in any country. A good transport network improves access and distribution of food, access to school by children and teachers, and access to health services. Increasing the cooperation between Europe and developing countries in this sector will contribute to the implementation of a more efficient transport system, thus allowing a response to the challenges of poverty, environmental degradation and migratory imbalances.

PHOTO: IMVF (GUINEA-BISSAU)

Energy

Energy is essential for sustainable development and the efforts do reduce poverty. It affects all aspects os development – social, economic and environmental. Access to renewable and sustainable energy sources should be part of the poorest countries' development policies, particularly in order to reduce emissions of greenhouse gases. The EU should therefore increase the expansion of cooperation and technology transfers in the energy sector, granting enabling these countries a full energy development and thus contributing to the achievement of the Millennium Development Goals.

PHOTO: UNITED NATIONS (SUDAN)

Security

The European Union supports peace processes in many developing countries – either politically, financially or by military means – to provide these countries stability and peace necessary for their development. However, in a global context where the proliferation of fragile states and complex emergencies is an expanding reality, it is increasingly evident the need for improvements at this level, promoting coherent policies between the two sectors. Increasing the control of European exports of weapons to ensure that they are not used against civilians or aggravate existing tensions or conflicts in developing countries is one of the measures that will contribute to the coherence of EU external action.

PHOTO: UNITED NATIONS (PAKISTAN)

Climate Change

Climate change is one of the most serious threats the world is facing. Despite its global effects, it will have a disproportionate impact on millions of people in developing countries, becoming a new obstacle in the fight against extreme poverty and diseases. We must act on two fronts: adaptation to help poor countries cope with the impact of climate change, and reducing global emissions of greenhouse gases. We should consider exempting climate technology in developing countries from patents, so that they can make a shift to a clean economy and benefit from new opportunities in the sector.

PHOTO: NENI GLOCK (ANGOLA)

Environment

Although the environment is increasingly understood as a public good at a global scale, MDG 7 has not received the necessary attention, thus running the risk of not being met in many developing countries. Due to the direct dependence of natural resources that ensure their livelihood, the poorest people are more vulnerable to the effects caused by environmental deterioration. It is therefore necessary to strengthen the support for developing countries to develop environmental policies consistent with their economic and social objectives. Green economy is the main way to ensure sustainable development, reduce poverty and generate employment.

PHOTO: IMVF (GUINEA-BISSAU)

Agriculture

Agriculture is a key sector to ensure poverty reduction and food security. The impacts of CAP decisions are immediate, direct and often devastating to the economies of developing countries. For the European Common Agricultural Policy to be coherent, aligned to the Millennium Development Goals and able to respond to new demographic, social, economic and climate challenges, it is necessary that the future CAP promotes food security in Europe, a sustainable agriculture and does not violate the right to food of the poorest people.