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Working Paper No. 2012/76

EU Aid: What Works and Why

Poul Nielson*

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Abstract

Over the years EU aid has been much discussed—and criticized. Besides the accusations of being old fashioned, slow and bureaucratic there is also the complexity of a close neighbourhood with the EU's foreign policy in general, trade and the eternal question for Europe of what to do as a community, and what to do as individual member states. This study cuts through this discussion by simply asking what works and why. Based on a somewhat exclusive version of participant observation the author describes the features that are distinct for EU aid and arrives at the conclusion, that thanks to a reform effort that mainstreamed EU aid these distinct features have become key assets.

Keywords: Cotonou Agreement, mainstream, trade, African Peace Facility, humanitarian aid

JEL classification: F13, F35, O24, P45

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1 Introduction

Following a brief presentation of the practitioner's approach to the study and the role of the Commission, the story of the transition from the Lomé to the Cotonou Agreement is briefly told. The trade aspects of the EU-ACP relationship with emphasis on the Economic Partnership Agreements are discussed as a case illustrating the author's view, that 'the glass is half full, not half empty'. Next, the unique feature of European Union (EU) aid of being present as a long-term partner in all developing countries and the effort to stimulate EU member states to increase their Overseas Development Assistance (ODA) is explained. The reform of EU aid bringing it into the mainstream of best donor practices as defined by the OECD DAC and the Paris and Accra declarations, including a move towards budget support, untying of aid, joining other donors in basket funding and opening up for an active co-operation with the multilateral players is presented. This includes not least the World Bank, illustrated by the EU contribution to the Heavily Indebted Poor Countries (HIPC), followed by an account and a discussion of the constructive and progressive role played by the EU at the global UN conferences over the last 20 years. 'The collective moderation' is a discussion of the Commission's function as a moderating cushioning especially in relation to former colonial member states. Next follows a presentation of the unique political and institutional architecture of the Cotonou Agreement, highlighting the indirect effect of the Agreement of enhancing South-South co-operation. The decision-making process behind the creation of the African Peace Facility that has strengthened the African Unions capacity to act as a peace keeper is laid out for the reader. Finally, the successful work of the EU's humanitarian arm, European Community Humanitarian Office (ECHO), is presented, and there is a discussion of the problems concerning the respect for the basic principles for humanitarian aid and ECHO's importance as an advocate and guardian for these principles.

In the final conclusion the point is made, that one could see a paradox behind what works and why in EU aid: On the one hand it was the deliberate move away from seeing itself as a development partner different and separate from all others and towards becoming more of a mainstream partner, both in relation to developing countries and to other donors, including the multilaterals, that revitalized and improved the performance of EU aid. On the other hand it is still the unique institutional features of the EU that add a special political dimension and global quality to EU aid. This is most clearly illustrated in the Cotonou Agreement.

The author of this study was a member of the EU Commission 1999-2004 responsible for development and humanitarian aid. Before that he was for five years Danish minister for development co-operation. He was elected first time (Social Democratic Party) to the Danish Folketing in 1971 and was Minister for Energy in 1979-82. Since 2005 he has been an adjunct professor at the University of Aalborg teaching european politics and development studies. He was a member of the High Level Advisory Group to the President of the African Development Bank 2005-07. He is Chair of the Danish Social Democratic Party's Committee on Foreign Affairs. Poul Nielson is a member of the UN Secretary General's Advisory Board on Water and Sanitation (UNSGAB).

2 The approach chosen for the study

The study will approach the question of ‘what works and why’ by discussing a series of issues and cases that together form a picture of what is characteristic about Europe’s collective effort in development co-operation. A particular attention will be given to the special discipline of humanitarian aid. In answering the question in the title of this study it has been deemed useful and necessary also to include some of what does not work and why in order to give a better background for understanding the changes and the comprehensive reform effort that has characterized EU development co-operation since 1999. But the study is not a total evaluation of EU aid. A lot more could be said about the problems of improving efficiency in implementation in certain regions (like the Mediterranean) and the challenge of improving poverty focus also in the EU’s co-operation in middle income countries. Emphasis has been put on giving an account of my own experience and analysis of the issues than on presenting a more traditional and fully documented account of them.

3 What is the Commission?

It is not a government, and it is not another secretariat in an international organization. The European Commission is a unique construction; however, it is outside the scope of this study to go deeper into a presentation of the institutional aspects of the EU. In development co-operation the Commission has competence to act, but member states as well as the European Parliament follow closely every move of the responsible Commissioner. Due to the system of committees there is a highly transparent environment. But EU aid works actively as a collective mechanism both formulating the policy and implementing about 20 per cent of the member states’ ODA.

4 From Lomé to Cotonou

From the very start of the Common Market it was necessary to find a way of dealing with the former colonies, primarily because of the intimate economic arrangements between France and West Africa. By creating a community-based framework for the trade relations as well as regular development aid and giving the Commission an active role in the administration of this, it was possible to maintain continuity in the relationship while at the same time lifting it out of its bilateral character. It should be kept in mind, that France was not the only one of the six founding members with transitional colonial interests at stake. In fact only Germany and Luxembourg were not operationally speaking stakeholders in the ‘wind of change’ process of the 1960s.

With the entry of the UK, the geographical scope of the EU’s involvement was widened. The member states’ contributions to the European Development Fund were still voluntary—outside the obligatory contributions to the budget—but the financial flow to the countries in the ACP group (Africa, Caribbean and Pacific) had a relatively stable and long term character. Reflecting to some extent the French philosophy of indicative planning the two mechanisms STABEX and SYSMIN represented an effort to manage macroeconomic fluctuations and changes in price relations in the mining sector. Even more important was the trade privileges giving these countries privileged

access to the European market at fixed quotas and prices. The development co-operation as such could be characterized as being traditional, based on projects to a large extent managed by the Commission, even if the structure of the co-operation between the EU and the ACP countries reflected a partnership philosophy that on paper for many years was ahead of its time.

The membership of Portugal and Spain accentuated the EU's attention on Latin America. The development co-operation with countries outside the ACP group did not have the same structured character. There has been regularly organized regional dialogues at the political level, but the development aid has not been the product of multilaterally structured negotiations. Inside the Commission there was a separate administrative setup for the ACP co-operation in Directorate General (DG) Development whereas the rest of the world was handled by Directorate General Relex on a more traditional country by country basis. The global coverage was not reflected in a comprehensively defined global development policy by the EU, and a strong point of criticism—especially from the group of 'likeminded countries'¹ was the lack of poverty focus and partnership in the activity. During the 1990s it became abundantly clear, that more than an update of the Lomé system was necessary, and with the decision in the Dispute Settlement Mechanism in the World Trade Organization (WTO) on bananas² it became clear that the future trade regime between the EU and the ACP had to be WTO compatible. Therefore the negotiations between the EU and the 79 members of the ACP group became a very broad ranging and profound process defining a new start in 2000.

5 Trade aspects

The central concept that emerged from the analysis and discussions about how to move on after the principled ruling on bananas was the Environmental Protection Agency's (EPAs)—regional economic partnership agreements. This was an innovative and also daring plan aiming at supporting the ACP countries' gradual integration into the world economy, not simply a WTO compatible trade agreement between the EU and these countries, but a broader agenda with the main thrust at liberalizing trade and integrating the economies in the ACP countries through regional structures of co-operation. The principles as well as the modalities and time schedule for the negotiations were clearly stated in the Cotonou Agreement,³ but it was equally clear, that it would be a big challenge to turn these principles into reality. Answering the question of what works and why in EU aid, when it comes to EPAs, is not an easy task, but on this issue as on many other aspects of Africa's development, my view is, that the glass is half full and not half empty.

The big problems and the big challenge have been in Africa. The 15 Caribbean states have not had the problem of agreeing on the geographic definition of their region, and their starting point in terms of economic diversification and general level of

¹ Denmark, The Netherlands, UK, Germany and later Sweden and Ireland. The development ministers met regularly the night before the meetings in the Council of development ministers and discussed the agenda. This was prepared by officials, and we also met as a group on other occasions.

² The special preference given to Caribbean banana exporters was contested by Ecuador, and the EU lost the case.

³ Cotonou Agreement 2000, chapter 2, New trading arrangements, Articles 36, 37 and 38.

development has been better than what was the case for their ACP colleagues in Africa. The 14 Pacific states would in any case have to be seen as a special case for regional integration given their enormous geographical spread and the extreme lack of critical mass in their individual economies.

The 48 African ACP states were already organized in more or less well-defined regional groupings with more or less ambitious plans for economic integration. But progress on the central matter of opening up for free trade internally in the regions had been slow with many countries relying on import customs and many forms of heavy regulation of foreign trade—also vis-à-vis their immediate neighbours. I often made the remark, that the scale of smuggling in many parts of Africa was a good illustration of the potential of regional liberalization.

The argument against reducing tariffs was, of course, that this source of income was essential for the state budget, but the big conservative opposition against opening up the economy for the neighbours came from those benefiting from different protected more or less monopolistic and more or less state-owned businesses. As has been the case everywhere else in the world, where the move from import customs towards VAT has been part of the trade liberalization process has been opposed, this has also given rise to voices of some more general anti-globalization in Africa, strongly supported by certain groups in Europe, leading to a veritable campaign against EPAs. Their main criticism has been, that the African economies were too weak and vulnerable to benefit from a liberalized trade regime with the EU, ignoring in my view both the fact, that the timing of tariff reductions on the two sides and the scope of the exceptions given the African countries strongly reflect the development perspective and philosophy of the EPAs, and the fact, that the main effect of the EPAs have to do with creating a better framework for inter-African growth and economic diversification.

It has also been a point of attack from the anti-globalization front in Europe, that the administrative unit in DG Development, that historically had dealt with trade relations with the ACP, was moved to DG Trade. I supported this. It would have been impossible to keep alive a special and small development oriented trade negotiation unit for certain countries without any real clout in the big WTO game. It was better to influence the system that had authority in the global game with the development perspective, and with Pascal Lamy as trade commissioner the two of us were politically committed to do this effectively. We went together hand in hand to the meetings in different regions when the negotiation process was started.

As the WTO Doha round lost momentum, the campaign against EPAs did have some effect. But the main reason for slowness in Africa of the implementation process of what was decided in 2000 has been the issue of defining the geography of the different regions. This was deliberately left out in 2000. It had to be up to the African countries themselves to decide whether they wanted to be part of an EPA, and to decide about the configuration of the regional EPAs. This would in any case be a highly sensitive issue, and our firm position was that the EU should keep out of that discussion. Historically, Europe had already drawn more than enough lines on the African map.

This has been a complicated political jigsaw puzzle. Southern African Development Community (SADC) was a politically well-defined region, given the legacy of liberation struggle, but slow on hard core economic integration and with South Africa as

a dominating player with its own trade agreement with the EU, liberalizing 95 per cent of all trade. Central Africa lost weight as a region, when the Democratic Republic of Congo (DRC) decided to enter SADC. Common Market for Eastern and Southern Africa (COMESA) lost Tanzania to SADC, but this was countered by Tanzania's participation in the real progress in the integration effort of the East African Community (EAC) giving some speed to the process in East Africa. The northern remains of COMESA has been hampered by the perpetual problems on the Horn of Africa. West Africa had a good starting point. In spite of the critical voices and the long delays the EPAs will at some point stimulate economic development, and combined with the 'everything but arms' decision in 2001, which gave all the Least Developed Countries (LDCs) tariff free and quota free access to the EU market, a model for a favourable inclusion into the global economy that strengthens diversification and growth in Africa is at hand.

Including the EPA case in the account of 'EU aid: what works and why?' might well at this stage seem somewhat premature. The point is, however, that the African nations have to face the global economic realities, they have to accelerate the creation of larger and more diversified home markets than their individual economies define, they have to create credible and transparent legislative and administrative systems and gradually broaden the tax base, which for a long time has to cope with the coexistence between a modern economy complying with international standards and the traditional informal subsistence economy in which a substantial part of their citizens still live. The point is also, that the perspective and the thinking behind the EPAs encompasses all this and combines it with the long term development co-operation partnership of the EU. This is a unique endeavour in North-South trade and economic co-operation.

6 Global coverage and volume

EU is the only donor that is present in all developing countries. This is a unique quality—especially after EU's development policy reached a point of maturity with the adoption in 2000 of its first overall framework for the EU's partnership with developing countries,⁴ bringing the EU's development policy more in line with best practices and generally agreed principles in the Development Co-operation Directorate (DAC). One indirect quality of this global presence and the firmly defined long term character of this, is that it adds to the weight and legitimacy of the EU also in any regional discussion—not only on development co-operation as such, but also on issues like conflict management, regional co-operation, environmental problems like river basin management etc. For the EU itself, this also has a potential to become a valuable asset in the effort to create a genuine European Foreign Service, even if the starting point generally speaking is, that the EU delegations traditionally have not excelled in performing political analysis. But it is worth noting, that even if the massive exercise of decentralization to the delegations has been concentrated on the execution of development aid, the enhanced role of the delegations as well as the addition of seconded staff from member states as part of the structuring of the External Service could have an interesting qualitative effect on Europe's ability to accumulate its own proprietary knowledge and assessment that could be second to none in the global

⁴ Communication from the Commission to the European Parliament and the Council, 26 April 2000. COM(2000) 212 final.

diplomatic game about insight and policy formulation. There are huge challenges for the EU in this. The member states' half heartedness is the achilles heel of a common European foreign policy, and one can say that, again, the carriage has been put in front of the horse in Europe's integration process. But for development co-operation, where the Commission has a real role to play, the enhanced role of the delegations is also contributing to strengthening the partnership character of the relationship with the partner countries globally.

The member states are not legally obliged to a uniform level of ODA, but it is important to note that all member states do contribute to EU's development aid through their obligatory share of the EU's budget. Several new member states have had their debut as donor countries through this. In the autumn of 2001, after 11 September, however, the development ministers backed the Commission's proposal of a more ambitious effort to increase the level of ODA. Member states below the then collective average would by 2006 increase their ODA percentage to that level, thereby increasing the total volume, and everybody would pledge to move towards the 0.7 per cent target. Instead of letting the development ministers individually go back to their finance ministers to try to convince them, the Commission pushed the issue directly to the level government leaders. At the European Council in Barcelona in March 2002 the plan was defined as the EU contribution to the UN summit Financing for Development in Monterrey that spring, where the EU played a vital role in stimulating the financial momentum in the follow up of the Millennium Development Goals. Following this, the Commission became mandated to report annually on the extent to which the EU member states implemented the Barcelona Commitments and to propose corrective measures wherever sufficient progress were not demonstrated.⁵ The interaction between development ministers and the Commission has enhanced the status of development co-operation and contributed to keeping up the EU's share of global ODA at around 55 per cent.

7 Going mainstream

The unique character of the institution has traditionally meant, that the Commission was seen as a player outside the debates on principles and practices in the donor community. The internal culture and administrative self perception in the Commission also clearly reflected this. Before 1999 it was not, for instance, seen as a problem, that the definition of the different categories of projects and activities were not in any way compatible with the system used in the DAC. Furthermore, there was no uniform system for this in the Commission for the different geographical regions. Latin America, Asia, the Mediterranean and the ACP had their own administration and their own ways of categorizing activities, and there was no integrated, overall annual presentation of the activities. Another problem was the enormous mountain of unspent commitments resulting from the cumbersome bureaucratic procedures of the Commission as well as from the lack of a stringent process of selecting and prioritizing projects. In other words, going mainstream was both a necessity and quite a challenge, if the Commission should position itself as a more effective and welcome partner in international development co-operation. The internal management of aid in the Commission reflected the divergences of the ad hoc grown structure and caused numerous problems. The creation of

⁵ Conclusions of the General Affairs and External Relations Council of November 2002 and 20 May 2003.

EuropeAid as the single entity for management and implementation has considerably improved performance.

In general terms, the fact that this challenge was taken seriously has meant, that today EU aid works,—and has been preserved as a major activity. As documented by successive DAC peer reviews,⁶ the European Commission has succeeded in becoming a welcome and professionally respected player in the donor community.

One of the main battles in the transformation has been the move towards budget support. In contrast to projects funded and managed by individual donors, basket funding, sector programme support and ultimately budget support have emerged as a more efficient delivery mechanism, not only in terms of speed and quantitative potential, but maybe even more in terms of the impact on the qualitative character of the donor-recipient relationship. Budget support provides the best incentive for administrative and managerial capacity development in the partner country, and strengthens the legitimacy of the political dialogue between donor and recipient. Among the DAC members there was a clear majority supporting this thinking (with the US and Japan being outside this consensus). For the Commission to open up and engaging in basket funding and sector programme funding with other donors, giving a real ownership role to the recipient partner country was a cultural change compared to the firm tradition of insisting on running our own projects. I used to say: ‘Visibility is fine. Feasibility is better’. One can say, that by its sheer size, the Commission through this policy change became a swing producer of better aid.

With the ongoing discussion between the Commission and the EU member states, and especially with the ‘forced debut as donors’ of new member states, the role model effect of the Commissions performance has had real influence in a wider context. The active participation and the clear support by the EU as a whole to the formulation of the Paris and Accra Declarations is a reflection of the policy orientation described here.

Internally it was not a simple matter to get acceptance for budget support. On top of the critical considerations that are always present and necessary about the level of confidence in the government of the partner country in question, the Commission also had to tackle the Financial Regulations rigid, complicated and detailed system of how money could be spent (46 different tender procedures were cut to 8!). But thanks to a close dialogue with the European Court of Auditors and the Development Committee in the European Parliament it was possible to get acceptance of moving from ex-ante to ex-post control conditioned on better reporting on risks involved and results achieved.

Untying of aid is another illustration of why EU aid works—and why. One point that was totally missed in the discussion about untying was, that even before the EU went beyond the DAC recommendations on untying, there was always competitive bidding between all the EU member states. This meant, that the efficiency gain by untying for the EU was never of the same order of magnitude as for the individual member states or other donors. With the decentralization as part of the reform of EU aid the tendering has been put in the hands of the recipient governments complying with standards of transparency—and untied.

⁶ The latest 2012 review: www.oecd.org/dac/peerreviews/eu

At the multilateral level the EUs move towards budget support was a key contribution to the huge operation of lifting the heavily indebted LDCs out of their impossible situation. On top of the very large direct injection of money into the HIPC operation managed by the World Bank and the IMF, the budget support from the EU was crucial in the follow up through the Poverty Reduction Strategy Papers (PRSPs) defining the main lines in the countries' public budgets. Without the budget support from the EU few of them would have been able to live up to the key demand of spending at least 25 per cent of the budget on the social sectors, primarily health and education. This signified a totally different philosophy than what had previously been pursued through the tough demands of the structural adjustment programmes.

It was noteworthy, that this was a clear reversal of the former political orientation of the World Bank. Jim Wolfensohn brought a more social orientation to the Bank. A turning point in the discussion about the debt problem was the social summit in Copenhagen 1995, where the international financial institutions were invited to 'explore ways of implementing additional and innovative measures to alleviate substantially the debt burden of developing countries, in particular the highly indebted low-income countries'.⁷ The EU played a progressive and very active role behind this.

The HIPC and PRSP involvement are good illustrations of what works and why in EU aid: A well organized progressive contribution in the global UN negotiations, a positively defined co-operative partnership with the World Bank and the UN system and not least the financial and administrative capacity to deliver both substantially multilaterally through HIPC and bilaterally through budget support to sustain the HIPC-countries efforts to comply with the PRSPs. Also the very large financial and managerial involvement of the EU Commission in the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM) illustrates this. For both of these, it was probably the case, that they would not have been possible without the new, more open and multilaterally oriented thinking in EU aid.

8 EU and the UN

Looking more generally at the EU performance at the chain of big UN conferences the last 20 years it is fair to say, that the EU has played a constructive and progressive role. Compared to the achievements of the EU in the more political and diplomatic (security policy, Middle East etc.) field of foreign policy, anything related to the global development policy agenda has been more successful. One reason for this is probably, that the development ministers in the member states over the years have become 'a good club'. They share the experience of working personally very directly with the reality of poverty, human suffering and global inequality as well as sharing the experience of fighting at home within their governments both with their finance ministers for an increase in ODA and their foreign ministers for allowing sufficient space for the development co-operation policy to stand out as a fully fledged portfolio in its own right. Unfortunately the special Council of development ministers was scrapped in 2002 in Xavier Solana's 'rationalization' of the Council structure (without any opposition from the Danish Presidency at the time), but through more informal ministerial Council meetings this club has survived as more than a point on the agenda on the meetings of

⁷ The Copenhagen Declaration and Programme of Action, Art. 90 (a).

the General Affairs and External Relations Council (GEARC). Development co-operation is a discipline that is rather different from what other ministers in a national government are doing, and this is also the case for the work of the development commissioner compared with the other colleges in the Commission. Another reason for the EU's good performance at the UN conferences has been, that both on substance and delivery potential the Commission has been a well organized partner and co-ordinator for the member states, simply because the Commission itself is actively engaged in the business on all the issues of the conferences. The difference to the foreign policy as such is clear, even if the Lisbon Treaty and the emergence of the new External Service hopefully may change this in the future.

It took quite some effort to create a more direct working relationship between the Commission and the different entities within the UN family. Even if the Commission is an established donor and player in international development co-operation, it is not a nation. (This is also a formal nuisance in the definition of the Commissions status and role in the DAC and the World Bank.) The EU member states are not keen to push the Commission into a more formalized status—something parallel to member states refusing to use the term embassies for the EU delegations and not to call Catherine Ashton Foreign Minister. It was also a challenge for the relevant Directorates General of the Commission to get to know the UN organizations, and a broad exercise identifying the most relevant candidates in the UN system to become closer partners was carried out, both in order to prioritize and to introduce these organizations to the staff.

Another obstacle that should be noted in this discussion about the performance of the EU in relation to the multilateral partners, is the character of the decision making in the EU. Even if it is true, that development policy issues are generally handled more smoothly and with relatively more authority by the Commission (in co-operation with the rotating presidencies) than foreign policy issues, it is still a fact that other players often see the EU as a somewhat difficult partner in the negotiating processes: once a mandate has (finally) been decided internally in the EU it takes a large and often time consuming effort to modify it and to adapt to the dynamics of the process.

9 The collective moderation

One important quality of having a common development policy managed by the Commission in all developing countries is, that the EU, or 'Europe' has an identity as a partner and a face of its own. In very many cases, the developing country's perception of 'Europe' is dominated by the historic relationship with the former colonial power. For better or worse there are still very many special relationships with economic, military, administrative and cultural ties. UK, France, Portugal, The Netherlands and Belgium all have varying versions of 'special relations' to their former colonies. This may be seen both as something positive or negative from the point of view of the developing country. I remember that Prime Minister Meles Zenawi once at a meeting in 'The Global Coalition for Africa' said to me: 'Please remember, Ethiopia never had a mentor'. The predominant impression, though, is, that the presence of the Commission as a development partner is welcomed as a balancing and often moderating actor in the circle of donors, and especially welcomed by partner countries where their former colonial master has kept up a presence that numerically and in terms of political weight tends to marginalize other bilateral partners. Given the range and depth of interests and

sensitivities at stake in some of these relationships, the Commission now and then may have—or is being called upon—to function as a cushioning element supporting the partner country’s quest for ownership. I have experienced situations in which I found it justified to remind EU foreign ministers, that the ‘C’ in CFSP (Common Foreign and Security Policy), should mean common, not convenient, and definitely not colonial.

Development co-operation and foreign policy are not totally separate entities. But development co-operation must be a discipline in its own right and with a commitment and a time perspective that puts it in another category than the management of foreign policy as such. Of course there is politics involved in development co-operation, but one might say, that there is an element of innocence and benevolence in it compared to the pursuit of interests as the core of foreign policy. For the EU with the relative weak muscle in the conduct of Europe’s foreign policy it was traditionally not so complicated to keep development co-operation as a relatively technical discipline. But with the raised ambition in our time on the foreign policy front, the need to preserve and respect the integrity of development co-operation has been accentuated. This is, of course, even more important for humanitarian aid. In this respect the organization in the Commission and the quality of the co-operation between the relevant Commissioners is crucial. But the stronger respect for the principles of ownership and a respectful partnership as the basis for EU aid, illustrated by the Cotonou Agreement and the EU support for the Paris Declaration, contributes to keeping development co-operation on track.

10 More on Cotonou

The Cotonou agreement is a central part of the answer to the question heading this study. The agreement forms the framework for the only structured and legally anchored co-operation relationship between North and South in the world. As shown above it had a history leading up to the profound reform in 2000 that with minor updates still is the long term basis for the EU-ACP relationship. Maybe the most important qualitative aspect of it is, that all this is really negotiated and formally agreed to between the two sides. Of course the fact that the EU member states at the end of the day individually decide about their contribution to the European Development Fund (which unfortunately is still not integrated into the normal EU budget) taints the picture of an equal balance of power at the negotiation table, but the broad range of issues covered by the agreement as well as the whole spirit of the relationship mean, that there has been a real give and take quality of the negotiations.

Compared to the old Lomé days with few member states in the EU, the broader EU membership already at EU 15 was conducive for creating a better and bigger space for the Commission to perform its role as initiator and co-ordinator in the process of defining the EU’s negotiating positions. On the ACP side, the ACP Secretariat had a similar function. But on both sides the member states were very close to the process, culminating in negotiations in Brussels at ministerial level with all the member states from both sides present for several consecutive days and nights.

Some elements of high political sensitivity illustrate the achievements in the negotiation in 2000: Direct support from the EU to civil society—or non state actors⁸—in ACP

⁸ Cotonou Agreement Art. 6.

countries was accepted after long internal discussions in the ACP group, where for instance a country like the Sudan did not like the idea of opening up for that kind of contact and support outside the direct control and management of the government. A few years later, the EU delegations on average were channeling 5-10 per cent of their annual spending to different civil society activities and organizations, always keeping the government informed and seeking its consent. The ownership aspect of this lies in the fact, that it was clearly and formally negotiated up front. Another very sensitive matter was the question of migration. The agreed text⁹ was totally parallel for the two sides, making it clear, that both EU and ACP countries shall accept the return or readmission of any of its nationals who are illegally present on the territory of a member state of the EU (or reversely the ACP) at that member states' request and without further formalities. There was also provisions for providing support to the implementation for these principles. This was quite a breakthrough at the time, and even if it was also clear in the agreement, that further legal work was required in order to comply with international law, it created a new starting base for dealing with these problems.

The three groupings on the ACP side—Africa, Caribbean and the Pacific are different, and also inside these groups exist some variations in terms of different economic, political historic and cultural interests. A side effect of the EU-ACP relationship is therefore, that it is stimulating a substantial South-South co-operation offering a unique opportunity for these 79 countries to compare notes and to formulate consolidated positions on all aspects on the broad agenda of the co-operation with the EU. This is also unique although it is never really recognized as a result of EU aid. Few—for instance—are aware, that as part of the EU-ACP co-operation the EU is supporting capacity building and negotiating capability by funding the ACP's presence at WTO in Geneva. At regional level within the three geographical groups there is a parallel to this stimulus of South-South co-operation in the special regional programmes on top of the allocations of bilateral character.

The criteria for country allocations are also negotiated, and the contractual character of the relationship as well as the South-South feature of it is illustrated by the fact, that reallocation of funds between the ACP States (moving unspent money from one country to another) or mobilizing money for cross cutting initiatives (like HIPC) have to be agreed to by the ACP Group.

The formal structure of the co-operation is also unique. The Council of Ministers meeting annually and the Committee of Ambassadors may look quite traditional, but there is a real dialogue in this, and on trade issues for instance, there is a Joint Ministerial Trade Committee. But the special feature of the formal structure is the Joint Parliamentary Assembly (JPA).¹⁰ The JPA debates the development of the EU-ACP co-operation and can make recommendations to the Council of Ministers. In the absence of a parliament the attendance of a representative from the ACP State concerned shall be subject to the prior approval of the JPA. This has caused some discussion, and the ACP parliamentarians have been more and more critical of having ambassadors present instead of elected parliamentarians, reflecting the stronger trend of democratization in these countries. The European Parliament delivers the EU component of the JPA,

⁹ Cotonou Agreement Art. 13, 5(c).

¹⁰ Cotonou Agreement Art. 17.

mainly from the Development Committee, and over the years these meetings have produced valuable debates and recommendations. Especially the question and answer sessions where the Commissioner is confronted directly by the parliamentarians have been interesting. Many of the members from ACP countries come from political systems, where putting a critical question to a minister—and especially also getting an answer—is not part of a normal experience.

The political dimension of the relationship is spelled out as a welcome and necessary feature of the partnership. The Article 8 political dialogue is seen as a regular ongoing activity in the interest of both sides.

Although not directly an ACP event, The EU Africa summit in Cairo in 2000 was an expression of this and was followed up by establishing a direct working relationship between the EU Commission and the Commission in the reformed and strengthened African Union involving a broader scope of contacts between Commissioners on both sides with similar portfolios. The continuation of EU-Africa summits has survived in spite of some tough political bumps that illustrate that the relationship encompasses more than development co-operation in a narrow sense. In 2000 the African side wanted Morocco to be excluded from participating in the summit because of the unsolved problem of western Sahara. The EU's position, that ultimately prevailed, on this was, that it would be a mistake to let a single problem and a single country block the big perspective of the EU-Africa dialogue. The next summit was postponed several years because the EU heads of government and states refused to attend if President Mugabe of Zimbabwe came to Lisbon. It was alright to let one country and one problem block the dialogue. However the dialogue eventually got back on track.

The case of Zimbabwe illustrates an extreme version of the problems threatening the co-operation when there is a violation of basic human rights and democratic principles in a partner country. Article 9 in the Cotonou Agreement draws up the essential elements—respect for human rights, democratic principles, and the rule of law—that must be adhered to, as well as the fundamental element of good governance. Article 96 contains the consultation procedure to be applied when one of the parties request this as a consequence of a violation of these essential elements. Suspension of the co-operation is understood to be a measure of last resort in the effort to remedy the situation. The EU-ACP Council of Ministers shall be involved in the consultations. All this underscores, that the reaction to violations of these principles is not a unilateral decision taken by the donor. There have been a number of cases, where the application of the procedure has been relatively successful, also because it has been in the clear interest of the surrounding neighbours in the region to limit the disturbing fallout after a military coup, a rigged election etc. The procedure has been updated since 2000 giving more weight to the role of the ACP Secretariat in the handling of the cases. Article 97 focuses explicitly on corruption that can similarly prompt consultations and result in suspension of the co-operation. This was in fact applied in the case of Charles Taylor's rule in Liberia.

With all the difficulties of these problematic situations, this system of how to consult, clarify the facts of the situation, discuss and agree about how to get back on track within some time frame underscores the long term partnership seriousness of the philosophy in the Cotonou Agreement. It also reflects the EU's inherent tendency to have a formal legal base for everything it does, but in this case it has not been an obstacle to the co-operation, but rather a safeguard.

11 The African Peace Facility

With the transformation of the Organisation of African Unity (OAU) to the African Union (AU) and especially with the powers given to the new AU Security Council it was clear that there was a growing potential for Africa to take more direct responsibility for peace keeping and conflict resolution. Especially after the long and many conflicts in the Great Lakes Region there was a strong need for a more authoritative response by the African nations themselves. I had a good working relationship with the AU Commissioner for peace and security issues, and I introduced my vision of a Peace Facility at the EU-ACP Ministerial meeting in June 2003. Shortly after, at the AU Summit in Maputo the AU Heads of State proposed, that a Facility be set up from funds allocated to their countries through the EU development co-operation agreements with Africa. The funds so collected (the ‘shaving off’ operation) would be pooled together in a fund to be called the African Peace Facility, and they urged the EU to work out a proposal. On 23 July 2003 the General Affairs and External Relations Council (GAERC) in principle endorsed the concept, and after some considerable technical and legal work the Peace Facility of 250 million euros was finally endorsed by the European Development Fund (EDF) Committee on 30 March 2004. Half of this to come from the ‘shaving off’ 1.5 per cent of individual African country allocations, the other half to come from reallocation of unused EDF funds here and there across the range of activities in all ACP countries. So the financial mechanism of the Peace Facility also was another demonstration of South-South solidarity.

The creation of the Peace Facility necessitated a veritable slalom between the pillars of the Maastricht Treaty defining the different sectors of EU co-operation. Was this foreign policy or was it development co-operation? The argument here was—and is—that conflicts are destroying the possibility of delivering development aid. Schools or roads cannot be built while countries are ravaged by conflict. Support to peace-keeping had to be seen as an integral part of fostering development. We had agreement with the African Union on this.

But could donor money spent for military capacity applied in peace-keeping count as ODA in the reporting to DAC? We had a very detailed discussion with the DAC Chair on this. The Commission, like other well-behaving donors, had no interest in contributing to a dilution of the criteria for what could be counted as ODA. The result was a pragmatic limitation excluding armaments and other types of direct support to military action. But the remaining scope for support—logistics, communication, payment and food for the soldiers, training etc.—was wide enough to form a solid basis for at substantial support behind the deployment of AU peace-keeping forces.

Also the question of decision making in the use of the facility caused some discussion. As much as EU member states had welcomed the concept of the facility, a few of them had difficulty in accepting, that the African Union should have a real and direct role including a right to initiate a proposal for releasing funds from the facility. The result here was also pragmatic. It kept its identity as an African Peace Facility (and not an EU Peace Facility for Africa). The AU can initiate, but there is a back and forth process in which the EDF Committee also has a decisive say.

The first deployment took place already in 2004 with the AU Mission in Sudan (Darfur). In 2006 the facility was prolonged and strengthened with another 600 million

euros, and in 2007 the scope of the African Peace Facility was broadened to also cover conflict prevention and post conflict stabilization. Since its start, the facility has now been allocated 740 million euros and carried out missions in Sudan, Central African Republic, Somalia and Comores. The African Peace Facility has been a key element in the endeavour of the AU to make a real African effort to stabilize the security situation on the continent. No other partner than the EU could or would assist this effort in this manner. It has been presented here as a case of EU aid that works, and the somewhat detailed description of the creation of it should answer the why.

12 Humanitarian aid

The EU has a formidable track record as a global leader in providing humanitarian aid. ECHO celebrated this year its 20 years anniversary. It was elevated from a directorate to a Directorate General in 2004 and now has a dedicated Commissioner. Over the years ECHO has channeled 14 billion euros in humanitarian aid to victims of disasters and conflicts in 140 countries. The level of annual spending is now around 1 billion euros.

ECHO is different from the ordinary bilateral humanitarian donors because of its capacity and the way it is organized. With 300 staff in Brussels and more than 400 in field offices in 38 countries it has an independent capacity to assess and monitor disasters and conflicts and to oversee on the spot the performance of the partners through which the actual delivery is carried out. It makes a big difference having an experienced, mature staff with global reach dedicated to humanitarian aid compared to bilateral donors, where interventions often tend to be managed in an ad hoc manner. ECHO has more than 200 implementing partners: 14 different UN organizations, 191 humanitarian NGOs and 3 international organizations (the Red Cross family). Through the system of these partners ECHO has contributed greatly to the improvement of the co-ordination, efficiency and quality of the international humanitarian response. The partners are thoroughly screened and have to accept the conditions for the operations of which the obligation to respect the demand for an overall co-ordination of who does what—often under the authority of United Nations Office for the Co-ordination of Humanitarian Assistance (UN OCHA). This is very different from the kind of chaotic response from the international society that was typical 20 years ago. Also in terms of human resource development in humanitarian aid ECHO through its approach and manner of working has stimulated the emergence of a real profession in this field.

To some extent parallel with what is mentioned above about the cushioning and modifying effect of the Commission handling development aid on behalf of the member states, it is worth noting, that ECHO has the capacity as well as the institutional stamina to work in difficult and sensitive situations as well as in the so-called forgotten crises. One illustration of this is the ongoing support to the many victims of the long internal conflict in Colombia. There are 3.7 million internally displaced persons and 400,000 refugees in the neighbouring countries since 1997. Through this conflict ECHO has been assisting the victims through different implementing partners. The typical annual spending has been 10-20 million euros. This takes place without any political noise. The support to the refugees from the conflict over western Sahara could be another example.

Beyond the primary achievement of the actual delivery of humanitarian aid, ECHO stands out as a guardian and advocate of the basic principles for humanitarian aid in

international law: Humanity, neutrality, impartiality and independence. These are more than nice and noble principles. Respecting them is essential both in order to make access to the victims possible and to protect the humanitarian workers in carrying out their mission. In practice, the principles have unfortunately in our time been under more and more pressure, both as a result of conflicts (civil wars, ethnic conflicts, asymmetric warfare, terrorism) fought without any recognition or respect for such principles, or as a result of the subordination of not only development aid but also delivery of humanitarian aid to the military dominance of engagements in conflicts (Afghanistan as a clear case).¹¹

We have witnessed a reduced respect and understanding of the definition of humanitarian aid as being a special discipline with its own *raison d'être* and its own operational autonomy. The frustration of the international society (we still do not have one, some of us are trying to create one!) passively facing genocide and other atrocities has understandably led to the development of the concept of the Responsibility to Protect. As much as this makes sense when appropriately applied, it also contains an element of risk for misuse and for narrowing the humanitarian space.

During the negotiations leading up to the conclusion of the EU Constitutional Treaty in 2004 there emerged a somewhat awkward threat to the independence of the conduct of EU's humanitarian aid from an unexpected corner. A number of member states—also some with a progressive donor profile—were disappointed with the slow progress in the creation of closer military co-operation in the EU, and as a sort of compensation for this they wanted to pull humanitarian aid into a closer and more operational relation to the CFSP. The Commission's insistence on preserving the internationally established standard wording concerning humanitarian aid was not immediately understood, but at the end of the day we avoided any damage, and the formulations also survived in the Lisbon Treaty: 'Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination'¹² and 'The Union shall ensure that its humanitarian aid operations are co-ordinated and consistent with those of international organizations and bodies, in particular those forming part of the United Nations system'.¹³

The role of humanitarian aid in our world of today is worrying and calls for more serious attention. With ECHO's performance the EU is giving an important contribution, but it takes a determined effort by the responsible Commissioner as well as the entire staff of ECHO to defend these principles.

13 Conclusion

Looking at the three basic policy papers defining the overall development co-operation policy of the EU since 2000, one can summarize their contributions as follows:

¹¹ One of the most problematic cases of this military contamination of humanitarian aid was the activity in Afghanistan of US and UK military personnel in civilian clothes, but armed, delivering humanitarian aid in villages while at the same time gathering military intelligence. Indirectly—but unavoidably—this cost the lives of real humanitarian workers.

¹² Lisbon Treaty, Art. 214, 2.

¹³ Lisbon Treaty, Art. 214, 7.

Commissioner Nielson's Overall Policy Paper¹⁴ introduced for the first time a global framework for the EU's development policy and brought the political thinking behind it in line with DAC principles, emphasizing poverty reduction as the main goal. Commissioner Michel's policy paper¹⁵ six years later was more comprehensive and gave more attention to the civil society dimension, but generally followed the same basic line. Commissioner Piebalgs' recent contribution¹⁶ sticks to poverty focus and the achievement of the Millennium Development Goals but gives slightly more space to business development and agriculture and energy than the previous policy papers. But for the observations and judgments in this study there are no inconsistencies between the three papers.

However, the relative independence and integrity of development policy vis-à-vis EU's foreign policy cannot be taken for granted. The Commission is under the same pressure as the member states' development ministers are from their Foreign Ministers and Finance Ministers to see development co-operation merely as a foreign policy instrument, putting the poverty focus under pressure, while pursuing a number of less development relevant goals in middle income countries. But the reforms of EU's development policy during the Prodi Commission—going mainstream—made it possible for the EU to capitalize on the institutional and political aspects of the EU that are different from other development actors. The comprehensive and institutionalized agenda with the ACP group, deliberately connecting trade and aid like no other donor. The boost to strengthening donor co-ordination and partner countries ownership of the co-operation process through more reliance on budget support—the EU as a 'swing producer of better aid'. The creation of the African Peace Facility based on the special relationship between the EU Commission and the AU Commission. The constructive contributions from the EU to the global UN conferences reflecting the fact that the EU itself is the organized personification of institutionalized multilateralism. And the achievements of ECHO in humanitarian aid.

In other words, by getting more normal it became possible for the EU to make better use of the ways in which it is different from others.

¹⁴ Communication from the Commission to the European Parliament and the Council, 26 April 2000. COM(2000)212 final.

¹⁵ The European Consensus on Development from 24 February 2006 (2006/C 46/01).

¹⁶ Increasing the impact of EU Development Policy: an Agenda for Change. 13 October 2011. COM(2011)637 final.