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Briefing N°33

The Development Cooperation and (Economic Cooperation) Instrument

Understanding the European Parliament Second Draft Report

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Eurostep is a network of autonomous European non-governmental development organisations working towards peace, justice and equality in a world free of poverty. Its membership, rooted in their own societies, works together to influence Europe's role in the world, particularly in pursuing the eradication of injustice and poverty. It advocates changes in Europe's policies and practice based on the perspectives drawn from direct experiences of an active involvement of its members and their partners in development in over 100 countries across the world. The members of Eurostep include: 11.11.11 (Belgium), ACSUR Las Segovias (Spain), Alliance Sud (Switzerland), Concern Worldwide, Deutsche Welthungerhilfe (Germany), Hivos (Netherlands), Kepa (Finland), Manitesse (Italy), Mellenfolkeligt Samvirke (Denmark), NiZa (Netherlands), Oikos (Portugal), Oxfam International (Netherlands), People in Need (Czech Republic), SNV (Netherlands), 'terre des hommes Germany.

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The financial instrument which will cover Europe's relations with developing countries has been under discussion by the European Parliament, the Council and the European Commission for more than a year. The European Parliament's rapporteur, Gay Mitchell MEP, has expressed his views on the structure of the future Development Cooperation Instrument (DCI) in a second draft report.

The Mitchell report aims at strengthening Europe's development policy whilst preserving the role of the European Parliament. For these reasons, it has been broadly supported by the members of the Committee on Development during their discussions on 25 January and 22 February. It has also been welcomed by *Eurostep* and other European development NGOs.

However, the report has received sharp criticism from the European Commission, principally because it advocates maintaining a strong role for the Parliament in development policy, a scenario which the Commission wanted to avoid in its original proposal for a Development Cooperation and Economic Cooperation Instrument (DCECI).

On the basis of its opposition to the Mitchell report, the Commission is trying to convince EU Member States' representatives in the Council's Development Working Group, that the rapporteur's proposal to include both the Council and the European Parliament in the adoption of the geographic and thematic priorities of EC aid would stand in the way of rationalisation, transparency and efficiency. **This is simply not true.**

The purpose of this briefing is to clarify the proposals contained in rapporteur Mitchell's second draft report on the DCI.

Various arguments are being put forward against the new Mitchell report:

1. ***"With the Mitchell report, the instrument for developing countries would be only based under Article 179 EC. This would prevent the Commission from covering certain expenditures in developing countries."***

FALSE

Explanation: The Commission maintains that Article 181a TEC is needed to cover certain actions in developing countries that cannot be financed under Article 179 TEC. In his report, rapporteur Mitchell indicates that there is absolutely no need to use Article 181a as a legal basis to cover development cooperation to developing countries in the DCI. Furthermore, the deletion of Article 181a is entirely in line with an opinion from the Council Legal Service of 15 April 2005¹ on the legal basis of the Commission proposal for a Council Regulation establishing an instrument for Stability, an opinion from the European Parliament Legal Service of 8 December 2005² on the scope, purpose and appropriate use as a legal basis of Article 181a TEC and the interaction between Article 179 TEC and Article 181a TEC, and the opinion from the European Parliament's Committee on Legal Affairs of 31 January 2006 on the legal basis of the proposal for a regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation and economic cooperation. In their opinion, the members of the Committee on Legal Affairs clearly recommend that *"the sole legal basis for the proposed regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation should be Article 179 of the EC Treaty."*

¹ Council of the European Union, Opinion of the Legal Service N°8095/05

² European Parliament, Legal Opinion SJ-0809/05

The Commission has so far identified no actions in the EC's co-operation with developing countries which **should** be covered by this instrument but which **cannot** be financed on the basis of Article 179 TEC. Furthermore, its justifications for including Article 181a TEC as a legal basis for the Development Cooperation and Economic Cooperation Instrument have changed throughout the course of the negotiations. Initially, certain Commission representatives identified actions in the field of *migration* as justification for using Article 181a TEC. Subsequently, they claimed that it was necessary to cover *security* activities. Other Commission officials justified the inclusion of Article 181a TEC by citing the example of *financing a police force in Afghanistan*. Most recently, in its non-paper of 3 February 2006, the Commission justified using Article 181a on the grounds that it was necessary to cover *certain internal activities with an external dimension* such as higher education, energy and transport.

There is a clear lack of conviction about the actual need for Article 181a TEC as a legal basis for the DCI. Moreover, in each of the examples which the Commission has cited, the activity is either part of a strategy for long-term development and, therefore, admissible under Article 179a TEC, or not, in which case it should not even feature in an instrument for development co-operation. The activities which fall under this latter category would be better covered by the Stability Instrument, the CFSP, or policies in the area of justice & home affairs or education & culture.

It should also be clear that the deletion of Article 181a TEC by no means prevents the European Union from carrying out economic cooperation activities with developing countries. On the contrary, the very first objective of EU development cooperation listed by Article 177 TEC is "the sustainable **economic** and social development of the developing countries". Article 179 establishes the codecision procedure as the means for "adopting the measures necessary to further the objectives referred to in Article 177".

2. "The Mitchell report would split the instrument into 13 different instruments."

FALSE

Explanation: In his second draft report, rapporteur Mitchell proposes that the DCECI should be split into two separate instruments: one for developing countries and the other for industrialised countries. He also proposes that geographic and thematic priorities should be co-decided in separate policy-setting regulations.

He **does not state** which geographic or thematic regulations should be adopted. Rather, the right of initiative is left to the European Commission which could, therefore, propose as many or as few regulations as it deemed necessary. If the Commission were to propose, for example, three geographic policy-setting regulations and three thematic policy-setting regulations, the result would be 1 instrument for development and 6 policy-setting regulations complementing that instrument. This scenario would clearly represent a genuine improvement on the current framework of more than 16 different regulations.

3. "The policy-setting regulations proposed in the Mitchell report would hinder transparency."

FALSE

Explanation: Rapporteur Mitchell's proposal for adopting policy-setting regulations *separately* would allow the European Parliament and the Council to openly debate the main regional and thematic approach of EC development policy. The public would be able to follow these discussions and identify their outcomes very clearly in the annual budget. This constitutes transparency.

The Commission's proposal to 'lock down' certain elements of the thematic and geographic programmes within the DCI at this point – and to leave their elaboration up to the Commission itself – obstructs proper transparent debate on the content of those programmes. It also prevents ongoing scrutiny of the geographic and thematic approach of EC development policy.

Moreover, if the geographic and thematic priorities are included in the DCI, the temptation to link issues to each other in the course of political negotiations is increased. For all of the above reasons, the Commission approach is the one which reduces transparency.

4. *"The policy-setting regulations proposed in the Mitchell report would not bring efficiency."*

FALSE

Explanation: The adoption of separate policy-setting regulations would result in much greater efficiency than the adoption of geographic and thematic priorities within the DCI. Indeed, rapporteur Mitchell's proposal would allow discussion of a specific thematic or geographic policy-setting regulation at all times necessary, without reopening a whole debate on the administrative arrangements of the whole DCI or on other geographic or thematic priorities. Previous experiences have shown that the need to revisit geographic or thematic priorities often arises. This was very recently the case with the compensatory measures for sugar producing countries as a result of the reform of the EU's common sugar regime. The European Commission proposal to include a summary of the geographic and thematic priorities within the DCI would open up the possibility of modification by the legislative authority each time a policy priority needed to be redefined. It would also subject the full range of geographical and thematic policy domains to scrutiny and negotiation by the legislative authority whenever a single policy priority required review. This would be a highly inefficient process, giving rise to a potentially unstable environment in which development policy would have to be conducted.

Eurostep therefore calls on the European Parliament and the Council to secure the adoption of a strong instrument for development cooperation to developing countries that would:

- **Be solely based on the Treaty article for development (179 EC).**
- **Provide a strong role for the legislative authority in the adoption of the geographic and thematic programmes, as suggested in the Second Mitchell report.**