

## **Integration of co-operation with ACP countries in the EU Budget:**

### **The Budgetisation of the EDF**

**A discussion paper**

#### **What is 'budgetisation'?**

Budgetisation is the proposal to integrate the European Development Fund into the normal EU budget. The Budgetary procedures would then also apply to the EDF. Decisions on the budget are taken by the Budget Authority: the European Parliament and the Council. Unlike the EDF the budget operates on the basis of annuality, and so funds lapse after a period of one year.

#### **Context of the proposal for 'budgetisation'**

Since 2000 the Commission and the Council have instigated a number of 'technical' reforms which were clearly motivated by political intentions. Within this process development co-operation has increasingly become subordinate to objectives derived from the EU's objectives abroad, rather than the aim to eradicate poverty and the Millennium Development Goals.

Following the marginalisation of the portfolio of the Commissioner of Development the Council abolished the Development Committee. The Commission introduced this year a new structure for the budget. This budget structure, rather than being Activity Based as had been requested, was based on the Commission's structure, and so confirmed the subordinate position of development. In the proposed budget for 2004 development has been marginalized to co-operation with ACP countries, whereas the co-operation with all other regions have been included in a separate chapter on external relations.

#### **The 'urgency' of the budgetisation issue**

Proposals for budgetisation go back to the early 1970s. In the present context of the negotiations within the Intergovernmental Conference to establish a Constitutional Treaty for Europe, the European Commission is seeking a mandate for the integration of the European Development Fund in the budget. It is seeking this mandate quickly. Limiting the possibility for any political debate on the desirability of the proposals, creating an image of urgency and that 'deadlines are very close'.

However, there is no urgency; the IGC can only *facilitate* budgetisation and nothing needs to be decided in the IGC in favour or against it. In 2004 negotiations will start on the Financial Perspectives and on EDF 10 and in that process there is still time until 2005/2006 to decide the final framework of whether EDF10 should be included within or outside the EU budget. Of course the negotiations on EDF10 could be suppressed if all actors agreed on

this but if not the Cotonou Agreement sets a clear procedure for the start of negotiations on EDF10.

Before any decision is taken a considered debate will need to take place between all actors involved, and in particular with those who are to gain or lose most, the ACP. In its Communication the Commission heralds the principles of ownership and partnership of the Cotonou Convention. It is obvious that on the basis of these principles thorough discussions with the ACP need to be held on the desirability of EDF budgetisation, possible conditions and potential scenarios.

Going through the Commission's arguments the following issues would deserve further debate:

### 1. The issue of marginalisation

The Commission argues that EDF budgetisation will be a measure to ensure that co-operation with the ACP will not be 'marginalised' and relations with the ACP be 'modernised'.

It can be argued that the co-operation with the ACP is the most advanced form of co-operation between the EU and developing countries, and sets an important example for co-operation between the EU and other regions. Co-operation with other regions still leaves much to be desired in terms of specificity of development objectives (poverty eradication) and instruments. There is also greater flexibility being created in these programmes, from which non-development related aspects are being increasingly funded, such as on migration, the fight against terrorism and actions in third countries to support EU security issues. The Cotonou Agreement is a balanced Convention and its focus and content should not be lost.

The problem of marginalisation is not related, therefore, to the Cotonou Agreement or the EDF, but to decisions taken at other levels that increasingly marginalise development co-operation. At present the EDF offers the a comparatively safe and viable long-term structure for development co-operation that is secure from the distortions from reforms that solely promote the EU's interests abroad.

### 2. The cost of budgetisation

Member States have made it clear that budgetisation will only be approved if it will not amount to additional costs. This means that a potential contribution to the budget that can be agreed in the Financial Perspectives will be on the basis of the lowest common denominator of ACTUAL payments on the EDF.

The Commission is clear that it will welcome budgetisation because it will allow greater flexibility in utilising the funds for the ACP. This flexibility will take several forms:

- † flexible allocation per country (moving funds between ACP countries)
- † flexible use of funds for other purposes, such as international funds (e.g. Water Fund); these will not be specifically for the ACP
- † Support to political initiatives such as the African Union

- † flexible use of funds for other purposes, e.g. peace keeping operations, migration, fight against terrorism
- † flexible use of humanitarian aid/EDF (the required amounts can be high as shown in the instances of Afghanistan and Iraq)
- † flexible use of funds to finance EU export subsidies

There will also be greater flexibility for shifting commitments in the budget to other regions. The European Budget is dramatically skewed towards Middle Income Countries, while low income countries, such as India and Bangladesh, with extensive poverty problems receiving only token amounts. In the coming years only €45 million per year is allocated for India (and this only in commitments). Attempts by the European Commission to allocate more funds for low income countries have been blocked in favour of other regions, and in particular those neighbouring the EU. In addition the power of the lobby from Mediterranean countries in favour of the Southern Mediterranean and Latin America has once more been demonstrated recently. This raises doubts about how much the Budget Authority would defend the interests of the ACP in the general EU budget. The European Commission would also find it difficult to defend these also since it has no authority in determining the budget.

### 3. Speeding up disbursements

The speeding up of disbursements can take place through a variety of actions, both by those that are already being implemented as well as through others that are intended to address the real causes of the problems. The decentralisation of Commission decision-making and implementation is one such measure that has this purpose. It should begin to have an impact in the near future. Reforms are also needed to tackle the cumbersome approval procedures and the inadequate controls after completion. There is a need to create processes for allocating funding with proper ex-post control mechanisms.

These are measures that address the heart of the problem, without which any increase in payments to ACP countries will not be possible. However, not all proposals for speeding up disbursements (i.e. transferring funds from EC accounts) will necessarily result in the ACP receiving more payments. The proposed initiatives to finance Global Funds may have the tendency to only move the resources between donors, away from the EU and into the accounts of other multilateral donors.

### 4. Enlargement and the issue of voluntary contributions to the EDF

The above trend is likely to be exacerbated by the accession of the 10 new Member States, many of whom might initially have little interest in development co-operation with Africa. It is therefore of the highest priority to safeguard and protect the current form of co-operation with the ACP with the EDF.

In the short term voluntary character of the EDF could be an excellent opportunity for EU Member States to show their commitment to poverty eradication and the Millennium Development Goals. Given that the accession

countries have subscribed to the *acquis communautaire*, and co-operation with ACP countries through the EDF is fully part of this, they have already accepted the need to contribute to the EDF. This might initially be relatively small, as was the case with countries who have acceded to the EU previously, but this can gradually grow as the economies of these countries expand.

The dangers of even longer delays in ratification of the successive EDFs could also be addressed by introducing the principle that EDF10 could be enforced after 2/3 of EU Member States have ratified – to equal the procedure at the ACP side. This fits well with EU thinking to move increasingly to a multi-tier EU.

Such a procedure would limit potential delays due to ratification by less interested parties. In any case, the ratification process has been part and parcel of the EDF until now and has been dealt with by utilising unspent funds of previous EDF's. This is also possible for EDF10 given that according to current estimates EDF9 will not be exhausted by 2007.

##### 5. Partnership and ownership

The increased role of the Council and the European Parliament in a budgetised EDF will seriously limit the possibilities for partnership and ownership which are central to the Cotonou Agreement.

In a document in which the EDF is assessed, the Commission clearly identified a desire to review the current role of the NAOs. In this document these principles are reduced to “good intentions”.<sup>1</sup> The Commission argues that:

*“With lots of good will, the Community has taken financial obligations towards ACP-countries and has given away the power of initiative to these same countries, of which many do not have sufficient capacities to assume fully this responsibility.”<sup>2</sup>*

The Commission then questions the role of the Joint Council of Ministers, and of the NAO's. The paper says it “diplomatically”:

*“Ownership has gone so far that the Commission cannot steer the implementation process.”<sup>3</sup>*

The paper also sets out what the Commission wants to steer. It does not only want to target “horizontal operations (HIPC, water, energy)” but it also sees that:

*“The pressure has become all the more important since initiatives in other policy areas (migration, terrorism) have also started focusing on the possible use of funds reserved for development co-operation.”<sup>4</sup>*

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<sup>1</sup> European Commission, Flexibility versus systemic constraints of the EDF system. Paper for the DEV DG's meeting, Brussels, 13-6-2003, DEV/A/1D(2003)

<sup>2</sup> *ibid.*, p. 1, emphasis MvR.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

Experience in other regions with the programming exercise (CSP's NIP's and MTR), which is based on the same principles of ownership, partnership and participation show that:

- in general CSPs are written only by desk officers and without participation of civil servant counterparts in recipient governments, and so there is little if any ownership;
- consultation with non -state actors has not been part of most of these processes, and so there is little participation;
- funding is unilaterally decided by the EU, and so there is little real partnership.

The co-operation between the ACP and the EU in the EDF has reached a higher standard than any other co-operation instrument of the EU.

#### 6. Accountability and the role of the European Parliament

A greater accountability to the European tax-payer and involvement of the European Parliament would be desirable. This would increase the profile of the ACP in the political debates of the Union. It would increase the consistency and coherence of EU external policy. It would also increase control mechanisms on the commitment and spending of the EU's assistance to ACP countries. A greater role for the European Parliament in setting priorities and control mechanisms related to the EDF should therefore be promoted.

#### 7. Budgetisation should be conditional

In an 'ideal world' the proposal to integrate the EDF in the budget would make sense, but in the current context budgetisation could provoke many set-backs for the ACP. Therefore budgetisation should only be considered if conditions are realised that will safeguard the EU's development policy as well as the central innovative elements contained in the Cotonou Agreement and the EDF. These conditions are the following:

- A consultation process with the ACP, in recognition of the principle of partnership that sets the framework for the Cotonou Agreement. This consultation should cover the idea of EDF budgetisation and its likely impact (both positive and negative) for ACP countries, on the implementation of the Cotonou Agreement and on the future of ACP-EU co-operation;
- The EU Constitutional Treaty incorporates the objective of poverty eradication as the principal objective of EU co-operation with all developing countries;
- The EU Constitutional Treaty must reflect that the principles of ownership, partnership and participation are the key elements of any strategy aiming at the eradication of poverty;

- The Constitutional Treaty includes clear parameters for the involvement of the current ACP-EU structures (ACP-EU Joint Assembly, ACP-EU Joint Council of Ministers, ACP secretariat,..)
- The Constitutional Treaty should give real and concrete guarantees that the resources for ACP countries will not diminish during the period covered by the Cotonou Agreement;
- Specific country and regional allocations continue to be the basis for co-operation with ACP countries;
- Programming with clear and genuine participation civil society actors, based on CSP's and NIP's in which recipient governments are the principle authors will remain the basis for the multi-annual programmes with specific countries (or regions);
- The principle of coherence, in that trade and aid should reinforce the aim of poverty eradication, should be included in the Constitutional Treaty;
- Clear allocation criteria of the whole EU co-operation budget related to a poverty focus are presented and agreed by the Commission and the budget authority;
- Long-term protection of funds for the (mainly low- income) ACP countries in the budget cycle;
- The new Activity Based Budgeting should demonstrate an increasing capacity allocated to co-operation with ACP countries to increase disbursements;
- Shown increased and proven effectiveness of disbursements of the current EDF9.

Without clear perspectives that these conditions will be met, negotiations should start on EDF 10 in 2004 as laid down in the ACP-EU Cotonou Partnership Agreement. These negotiations would then go forward in parallel with negotiations on the new financial perspectives.



## **Annex 1: Legislative framework: Cotonou Agreement and the EDF**

The Agreement between the EU and the ACP countries is governed by the ACP-EU Partnership Agreement signed in Cotonou on 23 June 2000 ('Cotonou Agreement'). It is an intergovernmental agreement between the Member States, which are party to the Treaty establishing the European Community and the Council of the European Union and the Commission of the European Communities on the one hand, and the States who are grouped within the ACP group of countries, on the other hand. States, including the EU Member States are individually party to the agreement – and, therefore, it had to be ratified by all the Member States' parliaments before it could enter into force.

In annex I, Financial Protocol, of the Cotonou Agreement the financial assistance to the ACP states is arranged. This annex establishes the details of EDF 9 for a period of five years commencing on March 1, 2000. The Protocol specifies the overall amount of financial assistance of €15.200 million and further broad specific allocations within the overall amount. The annex also specifies that any balances remaining from previous EDFs on the date of entry into force of the Financial protocol, as well as any amounts that would be decommitted at a later date from ongoing projects under these funds, will be transferred to the 9<sup>th</sup> EDF ('rolling over' and 'decommitting').

The annex arranges that the “overall amount of the Financial Protocol (..) will cover the period of 2000-2007” and hence the Fund will expire in 2007. No arrangement for a follow up fund is provided for through the Financial Protocol.

The annex also sets out that, before the expiry of the financial protocol, the parties shall assess the degree of realisation of commitments and disbursements, which shall “constitute the basis for re-evaluating the overall amount of resources as well for evaluating the need for new resources to support financial cooperation” under the Agreement.

## **Annex 2: Legislative framework in the Treaties**

The point of departure during negotiations of Cotonou were that the Agreement should be consistent with the objectives and principles set out in the Treaty on the European Communities, particularly with the chapter on Development Co-operation. In the European Treaties the following legislation is particularly relevant to the EDF:

EC Treaty Article 179 (3) states "The provisions of [article 179] shall not affect cooperation with African, Caribbean and Pacific countries in the framework of ACP-EC Convention". The purpose of this article has been to keep the meeting of Member States intergovernmental (requiring unanimity in decision-making), while the normal procedure of qualified majority voting does not apply. (see comment below on Convention)

EC Treaty Declaration MD12 on the European Development Fund (originating from the Maastricht Treaty and maintained in subsequent Treaty changes) and stating that "The Conference agrees that the European Development Fund will continue to be financed by national contributions in accordance with the current provisions." This is the crucial agreement among Member States, which stipulates that the EDF should be outside the budget. This declaration needs to be withdrawn from the Treaty to make budgetisation a possibility.

### Proposition from the Convention on the Future of Europe:

In the Draft Treaty proposed by the Convention on the Future of Europe, EC Treaty Article 179 is transferred to article III-219, however the sentence "The provisions of [article 179] shall not affect co-operation with African, Caribbean and Pacific countries in the framework of ACP-EC Convention" has been deleted. This does not mean legally that EDF would be automatically budgetised, as EC Treaty article 179 was only one of the two legal basis for an Intergovernmental management of EDF, the second one being the Declaration MD12 above.

### Reactions in the Convention:

Peter Hain, the representative of the UK government has opposed this change in the Convention, but other members of the Convention did not follow him. Peter Hain proposed the following amendment in order to reintroduce the provision on EDF, in article III-219 of the Draft Constitutional Treaty:

Amendment to Article III-219 by Peter Hain:

Add: "This Article shall not affect cooperation with the Africa, Caribbean and Pacific countries in the framework of the ACP-EC Convention."